

Regular Board Meeting
July 16, 2007

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Regular Meeting of the Board of Trustees of the Village of Croton-on-Hudson, NY was held on Monday, July 16, 2007 at the Municipal Building, Van Wyck Street, Croton-on-Hudson, NY.

The following officials were present:

Mayor Schmidt	Trustee Brennan
Trustee Kane	Trustee Gallelli
Trustee Konig	Manager Herbek
Attorney Staub	Treasurer Zambrano

1. CALL TO ORDER

Mayor Schmidt called the meeting to order at 8:03 p.m. Everyone joined in the Pledge of Allegiance.

2. APPROVAL OF VOUCHERS:

Trustee Brennan made a motion to approve the vouchers as follows; the motion was seconded by Trustee Kane and approved unanimously.

General Fund	\$41,712.64
Water Fund	3,679.70
Sewer	0
Capital Fund	2,774.885.00
Trust Fund	2,555.67
Debt Fund	0
Total	\$2,822,833.01

3. PUBLIC HEARINGS

Mayor Schmidt opened the Public Hearing to consider an Introductory Local Law No. 3 of 2007 creating a new Chapter 196 entitled "Stormwater, Drainage, Erosion and Water Pollution Control."

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Mr. Herbek said that the Chapter was developed to better protect the environmental resources of the Village and the provisions of the proposed chapter will serve to clarify, improve and strengthen the Village's Environmental Regulations. Mr. Herbek advised that under the Federal Clean Water Act the U.S. Environmental Protection Agency has established a comprehensive framework to regulate stormwater discharge. Mr. Herbek advised that the New York State Department of Environmental Conservation promulgated Phase Two Regulations that became effective on March 10, 2003 that require "MS4's" (Municipal Separate Storm Sewer Systems) to enact Stormwater Management Regulations by January 8, 2008.

Mr. Herbek introduced Lester Steinman from the Michaelin Institute and David Stolman, Planner from Frederick P. Clark Associates who have been working on a number of environmental laws for the Village.

Mr. Stolman advised that the New York State DEC is the agency who was given the responsibility of promulgating the "Phase 2 Regulations" in New York State. Mr. Stolman said that the New York State DEC also prepared model Local Laws for communities to use as a basis with the understanding that each municipality would stay as close as possible to those models or give reasons why there are some variations to their model Local Law. Mr. Stolman stated that "one size does not fit all" and subsequently he and Village staff have been spending the last few months tailoring the two Local Laws; the first being Stormwater and Erosion Control and the second pertaining to Illegal and Illicit Discharges into the Storm Server System.

Chuck Trendell, 39 Batten Road, Croton asked if this is going to affect the homeowner; such as steep slope laws and things of that nature or is it more of a grand overlay dealing with roads and stormwater drainage into the Hudson River.

Mr. Stolman stated that this law has several thresholds with the lowest threshold having to do with activities that would require a permit involving 400 square feet or more of land disturbance but which does not meet the size threshold defined in Section 196-5 of this law for larger development activity. Mr. Stolman added that any disturbance within 20 feet of a rainfall drainage channel would also be subject to review and approval by the Stormwater Management Officer but the application requirements would be less inclusive and stringent than for larger development activities. Mr. Stolman gave an example of someone putting in a garage that was just over 400 square feet; this would require that an application be made and that some sort of erosion control be required and reviewed by the Stormwater Management Officer to determine exactly what would be required.

Mayor Schmidt stated that the concept of this Law is really to help with Stormwater Management because whenever we are building a house we disturb the runoff and we are hoping that this law will have the affect of mitigating those issues. Mayor Schmidt added that this will not affect homes that currently exist but will affect those homeowners doing renovations that reach this threshold.

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Trustee Gallelli stated that this law also applies to future maintenance of current erosion control facilities.

Chuck Trendell, 39 Batten Road, Croton, said that it was mentioned that the Village Engineer will be the coordinator of these applications, but asked if there is going to be any oversight above the engineer?

Mr. Herbek said that there are certain employees that have statutory authority in the Village Code including the Village Engineer, Building Inspector., Fire Dept., etc. but most of those departments work with the Village Manager who in turn report to the Board of Trustees. Mr. Herbek said that there is always an opportunity for further discussion in event of a difference of opinion. Mr. Herbek said that a statutory authority has been built into this law and that he relies on all the department heads to do the enforcement that is specified in the Village Code.

Mayor Schmidt said that small projects would go through the Village Engineer, but if it is a project going through the Planning Board there would be that overlay of authority in terms of reviewing the application and the management practices that are incorporated into that approval process. Mayor Schmidt stated that if the Planning Board is the approving authority they would approve the stormwater management requirements along with guidance from the Village Engineer.

Fran Allen, 7 Finney Farm Road, Croton, said that she is very pleased to see this law overall; it is a terrific improvement but she referred to Article 1, 196-6 "Construction Phasing" and said that the Planning Board's recommendation was for one acre.

Mayor Schmidt stated that after further discussion and review it was changed to reflect two acres.

Trustee Kane asked how the decision was made for two acres instead of the one acre suggested by the Planning Board.

Dan O'Connor, Village Engineer, stated that his concern was the construction of single family homes and the Board did not want to put someone who is building a single family home under two acres into a phased construction plan, but certainly if it is a larger project (2+ acres) it would require phased construction.

Mr. Stolman said that the model law asked for five acres but the Village felt that it should be less based upon the comments by the Planning Board

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Trustee Gallelli pointed out that the Planning Board in its review of any particular construction project can call for a phased construction plan and it does not have to be contingent upon this particular law.

There being no further comments to come before the Board a motion to close the Public Hearing was made by Trustee Brennan and seconded by Trustee Gallelli and approved unanimously.

On motion of TRUSTEE Gallelli, seconded by TRUSTEE Brennan, the following resolution was adopted by the Board of Trustees of the Village of Croton-on-Hudson, New York:

WHEREAS, the Village has hired Frederick P. Clark Associates and Wormser Kiely Galey & Jacobs to help with the revisions of the Village's environmental laws; and

WHEREAS, a new chapter 196 on Stormwater, Drainage, Erosion and Water Pollution Control has been drafted; and

WHEREAS, this law has been reviewed by Village staff, the Planning Board, and the Water Control Commission, and has been discussed at a Board of Trustees work session; and

WHEREAS, a Full Environmental Assessment Form has been drafted; and

NOW THEREFORE BE IT RESOLVED: that the Village Board of Trustees does hereby determine, based on the Environmental Assessment Form submitted to and reviewed by the Board, that this is an unlisted action,

AND BE IT FURTHER RESOLVED: that based upon the Environmental Assessment Form, the Village Board of Trustees hereby adopts the attached Negative Declaration with respect to this matter.

On motion of TRUSTEE GALLELLI seconded by TRUSTEE BRENNAN, the Board of Trustees of the Village of Croton on Hudson hereby unanimously adopts Local Law No. 3 creating a new Chapter 196 entitled " Stormwater, Drainage, Erosion and Water Pollution Control" as follows:

Local Law No. 3 of 2007

LOCAL LAW ADDING A NEW CHAPTER 196 TO THE CODE OF THE VILLAGE OF CROTON ON HUDSON

SECTION 1. The Code of the Village of Croton-on-Hudson is hereby amended to add a new Chapter 196 entitled "Stormwater, Drainage, Erosion and Water Pollution Control" to read as follows:

**“Chapter 196: STORMWATER, DRAINAGE, EROSION AND WATER
POLLUTION CONTROL**

Article I. Stormwater Management and Erosion and Sediment Control

§ 196-1. Legislative findings.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- C. Clearing, grading, excavating, soil disturbance or placement of fill during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- D. Improper design, maintenance and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- F. Substantial economic losses can result from these adverse impacts on the waters of the Village.
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with

stormwater runoff is in the public interest and will minimize threats to public health and safety.

- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 196-2. Purpose and objectives.

The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the legislative findings in § 196-1 hereof. This article seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4 SPDES No. NYR20A370), Permit no. GP-02-02 or as amended or revised.
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
- C. Minimize increases in the rate of stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels.
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable.
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 196-3. Applicability.

- A. All land development activities, including but not limited to land development activities subject to review and approval by the Village Board, Planning Board, Zoning Board of Appeals, or Village Engineer of the Village under subdivision, site plan, special permit, steep slope, wetland, tree removal permit and/or other land use or environmental permit regulations, shall be reviewed subject to the standards contained in this article.
- B. It shall be unlawful for any person to engage in a land development activity other than an exempt activity as defined in Section 196-4, in the absence of a Stormwater Pollution Prevention Plan (SWPPP) approved by the Stormwater Management Officer or other approving authority as specified in Section 196-3.C.
- C. The Stormwater Management Officer shall accept, review and be the approving authority for all Stormwater Pollution Prevention Plans, except as follows:
 - (1) The Board of Trustees shall be the approving authority for any application involving property that is also the subject of a pending special permit or other land use or environmental permit application before that Board in accordance with the provisions of the Village Code.
 - (2) The Planning Board shall be the approving authority for any application involving property that is also the subject of a pending site plan, subdivision, special permit, steep slope, wetland, tree removal or other land use or environmental permit application before that Board in accordance with the provisions of the Village Code.
 - (3) The Zoning Board of Appeals shall be the approving authority for any application involving property that is also the subject of a pending special permit or other land use or environmental permit application before that Board in accordance with the provisions of the Village Code.
- D. The approving authority may (1) review the plans, (2) upon approval by the Village Board, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this article.

§ 196-4. Exemptions.

The following activities shall be exempt from review under this article:

- A. Agricultural activity as defined in this article.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this article.
- C. Repairs and routine property maintenance activities that disturb less than 5,000 square feet and maintain the original line and grade.
- D. Repairs and routine maintenance to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Land development activities for which a building permit has been approved and is still in effect on or before the effective date of this article.
- F. Cemetery graves.
- G. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles.
- H. Emergency activity immediately necessary to protect life, property or natural resources.
- I. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- J. Landscaping and horticultural activities that disturb less than 5,000 square feet in connection with an existing non-commercial structure.

§ 196-5. Definitions.

Whenever used in this article, the following terms will have meanings set forth below:

AGRICULTURAL ACTIVITY – The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

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APPLICANT – Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, filing an application for a land development activity or minor land disturbance activity subject to the provisions of this article.

BUILDING – The term “building” as defined in Section 230-4 of the Village Code now or as hereafter amended.

CHANNEL – A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING – Any activity that removes the vegetative surface cover.

DEDICATION – The deliberate appropriation of property by its owner for general public use.

DEPARTMENT OR NYSDEC – The New York State Department of Environmental Conservation.

DESIGN MANUAL – The New York State Stormwater Management Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER – A person who undertakes land development activities.

EROSION CONTROL MANUAL – The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book.”

GRADING – Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER – Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

INDUSTRIAL STORMWATER PERMIT – A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION – The process of percolating stormwater into the subsoil.

LAND DEVELOPMENT ACTIVITY – Any construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 5,000 square feet in area.

LANDOWNER – The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT – A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION – Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PERSON – Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

PHASING – Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN – Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT – Land development activity or minor land disturbance activity as those terms are defined and/or used in this article.

RAINFALL DRAINAGE CHANNELS — Those existing interconnected networks of depressed contours and enlargements thereto which, by virtue of their location, convey surface water runoff from its source to its ultimate points of discharge.

RECHARGE – The replenishment of underground water reserves.

SEDIMENT CONTROL – Measures that prevent eroded sediment from leaving the site.

SILVICULTURAL – Of or relating to the management and care of forests.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

STABILIZATION – The use of practices that prevent exposed soil from eroding.

STOP WORK ORDER – An order issued by the duly authorized municipal authority which requires that all land development activity and other construction activity on a site be stopped.

STORMWATER – Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT – The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY – One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) – The Village Engineer and his or her designees, and/or such other Village officers or employees as designated by the Village Manager.

STORMWATER MANAGEMENT PRACTICES (SMP) – Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

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STORMWATER POLLUTION PREVENTION PLAN (SWPPP) – A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF – Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK – Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

VILLAGE – The Village of Croton-on-Hudson, New York.

VILLAGE ENGINEER – The person employed as a Village Engineer of the Village of Croton-on-Hudson, or his or her designee.

WATERCOURSE – The term “watercourse” as defined in Section 227-3 of the Village Code now or as hereafter amended.

WETLAND – The term “wetland” as defined in Section 227-3 of the Village Code now or as hereafter amended.

§ 196-6. Stormwater Pollution Prevention Plans.

- A. No application for approval of a land development activity shall be reviewed until the appropriate approving authority has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the requirements of this article.

- B. All SWPPPs shall provide the following background information, erosion and sediment control, and stormwater management measures relating to stormwater quantity:
- (1) Background information about the scope of the project, including location, type and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s). The site map shall be at a scale no smaller than 1"=50.'
 - (3) Description of the soil(s) present at the site and soil test results, if requested.
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Not more than two (2) acres shall be disturbed at any one time, provided however, the approval authority may opt to increase the amount of land that may be exposed at any one time pursuant to an approved SWPPP.
 - (5) Description of the pollution prevention measures that will be used to control construction materials, chemicals and debris from becoming a pollutant source in stormwater runoff.
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill-prevention and response.
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.

- (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.
- (10) Temporary practices that will be converted to permanent control measures;
- (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in place until the site is stabilized.
- (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (13) Name(s) of the receiving water(s) and NYSDEC classification(s), if applicable.
- (14) Delineation of SWPPP implementation responsibilities for each part of the site.
- (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
- (16) Any existing data that describes the stormwater runoff at the site.
- (17) An acknowledgement by the landowner granting to the Village and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.
- (18) Description of each post-construction stormwater management practice, including but not limited to dimensions, material specifications, and installation details for each post-construction stormwater management practice.
- (19) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

- (20) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, as per the manual specified in § 196-8.A(1) herein.
 - (21) Comparison of post-development stormwater runoff conditions with pre-development conditions.
 - (22) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- C. In addition to the information requirements of § 196-6B, SWPPPs for land development activities disturbing one (1) or more acres, whether or not these land development activities involve discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment must provide the following water quality controls (post stormwater construction controls):
- (1) Description of each post-construction stormwater management quality practice.
 - (2) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management quality practice.
 - (3) Hydrologic and hydraulic analysis for all structural components of the stormwater management quality system for the applicable design storms, as per the manual specified in § 196-8.A(1) herein.
 - (4) Dimensions, material specifications and installation details for each post-construction stormwater management quality practice.
 - (5) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management quality practice.
 - (6) Maintenance easement(s), where required, to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded and shall remain in effect with transfer of title to the property.

- (7) Inspection and maintenance agreement recorded and binding on all subsequent landowners served by the on-site stormwater management measures in accordance with §196-9 of this article.
- D. The SWPPP shall be prepared by a landscape architect, certified professional in erosion and sediment control, professional engineer, or other professional(s) deemed acceptable by the NYSDEC and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this article.
- E. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- F. Each contractor and subcontractor identified in the SWPPP and/or any successor or substitute contractor or subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards." Copies of these statements shall be delivered to the SMO.
 - (1) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (2) The certification statement(s) shall become part of the SWPPP for the land development activity.
 - (3) The certification shall contain proof that each contractor who will be involved in a land development activity has obtained training and/or certification in proper erosion and sedimentation control practices. Such certification shall become part of the SWPPP for the land development activity and shall be retained on-site.
- G. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

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§ 196-7. Stormwater management and erosion and sediment control for minor land disturbance activities.

1 A. All activities which require a building, land use or environmental permit and
2 involve 400 square feet or more of land disturbance but which do not meet the
3 defined size threshold in § 196-5, Definitions, for a land development activity, or
4 any disturbance with twenty (20) feet of a rainfall drainage channel, are subject to
5 the review and approval of the Stormwater Management Officer.
6

7 B. An application for approval of such a minor land disturbance activity, as specified
8 in subsection A above, shall include, except as may be waived by the SMO, the
9 following background information, erosion and sediment controls, and stormwater
10 management practices. Such activity is subject to the performance and design
11 criteria in § 196-8.A herein, and the application shall show that there will be no
12 net increase in the rate of runoff resulting from the project for the 10-year storm
13 event.
14

15 (1) Background information about the scope of the project, including location,
16 type and size of project.

17 (2) Site map/construction drawing(s) for the project, including a general
18 location map. At a minimum, the site map shall show the total site area; all
19 improvements; areas of disturbance; areas that will not be disturbed;
20 existing vegetation; on-site and adjacent off-site surface water(s); wetlands
21 and drainage patterns that could be affected by the construction activity;
22 existing and final slopes; locations of off-site material, waste, borrow or
23 equipment storage areas; and location(s) of the stormwater discharges(s).
24 The site map shall be at a scale no smaller than 1"=50.'

25
26 (3) Description of the soil(s) present at the site and soil test results, if
27 requested.
28

29 (4) Construction phasing plan describing the intended sequence of construction
30 activities, including clearing and grubbing, excavation and grading, utility
31 and infrastructure installation and any other activity at the site that results in
32 soil disturbance.
33

34 (5) Temporary and permanent structural and vegetative measures to be used for
35 soil stabilization, runoff control and sediment control for the project from
36 initial land clearing and grubbing to project close-out.
37

38 (6) A site map/construction drawing(s) specifying the location(s), size(s) and
39 length(s) of each erosion and sediment control practice.
40

41 (7) Dimensions, material specifications and installation details for all erosion
42 and sediment control practices.
43

- (8) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in place until the site is stabilized.
- (9) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (10) Name(s) of the receiving water(s) and NYSDEC classification(s), if applicable.
- (11) Any existing data that describes the stormwater runoff at the site.
- (12) An acknowledgement by the landowner granting to the Village and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.
- (13) Description of each post-construction stormwater management practice, including but not limited to dimensions, material specifications and installation details for each post-construction stormwater management practice.
- (14) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
- (15) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storm.
- (16) Comparison of post-development stormwater runoff conditions with pre-development conditions.

§ 196-8. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

- A. For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article

chapter.¹ Copies of the two manuals are on file in the office of the Stormwater Management Officer.

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most recent version including applicable updates or its successors, hereafter referred to as the Design Manual).

(2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2005, most recent version including applicable updates or its successors, hereafter referred to as the Erosion Control Manual).

B. Where stormwater management practices are not in accordance with technical standards, the owner, applicant or developer must demonstrate equivalence to the technical standards as set forth in § 196-8 and the SWPPP shall be prepared by a certified professional in erosion and sediment control, professional engineer or other professional(s) deemed acceptable by the NYSDEC.

C. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 196-9. Maintenance, inspection and repair of stormwater facilities.

A. The owner, applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner, applicant or developer to achieve compliance with the conditions of this article . Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent, and placed in an acceptable location and properly stabilized.

B. The owner, applicant, developer or their representative shall be on site at all times when construction or grading activity takes place and shall maintain the effectiveness of all erosion and sediment control practices. Inspections shall be

¹ Editorial note: The New York State technical guidance documents may be ordered from The Department. An order form as well as downloadable versions of the Manuals are available on the Internet at:

conducted and inspection reports shall be completed by a landscape architect, certified professional in erosion and sediment control, professional engineer or other professional(s) deemed acceptable by the NYSDEC every seven (7) days and within twenty-four (24) hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be maintained in a site log book and transmitted to the SMO within two (2) business days of the date of the inspection.

C. Prior to the issuance of any approval that has a permanent stormwater management facility as one of the requirements, other than one serving an individual single-family residence, the owner, applicant or developer must execute an easement that shall be binding on all subsequent landowners served by the permanent stormwater management facility. The easement shall be in a form acceptable to the Village Attorney and shall provide for access to the facility at reasonable times for periodic inspection by the Village to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Village Attorney.

D. The owner or operator of permanent stormwater management practices installed in accordance with this article shall operate and maintain the stormwater management practices to achieve the goals of this article. Proper operation and maintenance also includes as a minimum, the following:

(1) A preventive/corrective maintenance program for all facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with §196-8.C.

(4) If required by the SMO, an annual report shall be submitted to the SMO within 30 calendar days of the end of the calendar year.

E. Prior to the issuance of any final plan approval, the owner, applicant or developer must execute a formal maintenance agreement for permanent stormwater management facilities, other than those serving an individual single-family residence, binding on all subsequent landowners. The maintenance agreement shall be in a form acceptable to the Village Attorney and shall be recorded in the

office of the County Clerk as a deed restriction on the property. The Village of Croton-on-Hudson, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future permanent stormwater management facility, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 196-10. Construction inspection, administration and maintenance.

A. The Stormwater Management Officer may require such inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify Village enforcement officials at least forty-eight (48) hours before any of the following as required by the Stormwater Management Officer:

- (1) Start of construction;
- (2) Installation of sediment and erosion control measures;
- (3) Completion of site clearing;
- (4) Completion of rough grading;
- (5) Installation of constructed stormwater improvements;
- (6) Completion of final grading;
- (7) Close of the construction season;
- (8) Completion of final landscaping; and
- (9) Successful establishment of landscaping in public areas.

If any violations are found, the owner, applicant and/or developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. It shall be the primary responsibility of the property owner(s) and the successor

property owner(s) to perform all necessary inspections, maintenance, report submissions, adjustments, repair, replacement and reconstruction of the stormwater management facilities. Required inspections shall be conducted and reports prepared by a certified professional in erosion and sediment control, a professional engineer or other professional(s) deemed acceptable by the NYSDEC. If, at any time, the Stormwater Management Officer determines that necessary inspections, reports, maintenance, repairs, adjustments, replacements or reconstructions have not been properly performed, notice of such determination shall be given to the property owner(s) of the property or properties upon which the stormwater facility or facilities are situated and shall provide a reasonable period under the circumstances to cure such improper performance. If the property owner(s) fails to timely correct any and all deficiencies as provided in the notice, the Village may undertake to perform any such work or work that it finds, in its sole judgment, as necessary to preserve the stormwater management functions or stormwater management practices (SMPs), at the cost and expense of the property owner(s) and the successor property owner(s). Copies of all bills, statements and invoices substantiating such costs, including costs of consultants, shall be included with written notice of same. In the event that all such costs and expenses are not paid within thirty (30) days of issuance of statements for this work, the total cost of such work shall constitute a lien against the property or properties upon which the stormwater management facilities are situated which shall be levied and collected in the same manner as Village real estate taxes or in such manner otherwise provided by law. The property owner(s) and the successor property owner(s) shall be personally liable for the payment of all such costs, including costs of collection and reasonable attorney's fees. Where multiple lots are involved, each lot shall individually and separately bear its equal share of such costs.

C. Except for activities regulated under § 196-7 herein, all applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed land surveyor or professional engineer.

D. Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the SPDES stormwater permit; and

joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

E. The Stormwater Management Officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

F. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

§ 196-11. Performance guarantee.

A. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village in its approval of the Stormwater Pollution Prevention Plan, the Village may require the owner, applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village as the beneficiary. The security shall be in an amount to be determined by the Village based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village, provided that such period shall not be less than one (1) year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one (1) year inspection has been conducted and the facilities have been found to be acceptable to the Village. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction based upon the advice of the SMO. If the developer

1 or landowner fails to properly operate and maintain stormwater management and
2 erosion and sediment control facilities, the Village may draw upon the account to
3 cover the costs of proper operation and maintenance, including engineering and
4 inspection costs.

- 5
6 C. Entities subject to this article shall maintain records demonstrating compliance
7 with this article.
8

9 **§ 196-12. Enforcement and penalties.**
10

- 11 A. When the SMO determines that a land development activity is not being carried
12 out in accordance with any requirement of this article, or that any provision of this
13 article is not being complied with, the SMO may issue a written notice of violation
14 to the landowner, applicant, contractor and/or developer. The notice of violation
15 shall contain:
16

- 17 (1) The name and address of the landowner, contractor, developer or applicant;
18
19 (2) The address when available or a description of the building, structure or
20 land upon which the violation is occurring;
21
22 (3) A statement specifying the nature of the violation;
23
24 (4) A description of the remedial measures necessary to cure the violation and
25 a time schedule for the completion of such remedial action; and
26
27 (5) A statement of the penalty or penalties that shall or may be assessed against
28 the person to whom the notice of violation is directed.
29

- 30 B. If the notice of violation is not complied with within the time provided in the
31 notice, the SMO may request the Village Attorney to institute the appropriate
32 proceedings at law or in equity to prosecute, restrain, correct or abate such
33 violation and for other attendant remedial measures.
34

- 35 C. The SMO may issue a stop work order for violations of this article. Persons
36 receiving a stop work order shall be required to halt all land development activities
37 and other construction activities on the site, except those activities, approved by
38 the SMO, that address the violations leading to the stop work order. The stop
39 work order shall be in effect until the SMO confirms that the violation has been
40 satisfactorily addressed. Failure to address a stop work order in a timely manner
41 may result in civil, criminal, or monetary penalties in accordance with the
42 enforcement measures authorized in this article.

- 1
- 2 D. Issuance of a stop-work order by the SMO shall be as provided in Chapter 86 of
- 3 the Village Code. A stop-work order may be appealed by filing a written notice of
- 4 appeal with the Planning Board not later than thirty (30) days after service of the
- 5 stop-work order upon the applicant. A hearing shall be scheduled by the Planning
- 6 Board within twenty (20) days of receipt of request for a hearing. After the close
- 7 of the hearing, the Planning Board may confirm, modify or cancel the stop-work
- 8 order.
- 9
- 10 E. Any violation of this article may be restrained by injunction or otherwise abated in
- 11 a manner provided by this article.
- 12
- 13 F. Any person who violates the provisions of this article shall be guilty of an offense
- 14 punishable by a fine not less than five hundred dollars (\$500) nor more than one
- 15 thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6)
- 16 months, or both for conviction of a first offense; for conviction of a second offense
- 17 both of which were committed within a period of five (5) years, punishable by a
- 18 fine not less than one thousand dollars (\$1,000) nor more than one thousand five
- 19 hundred dollars (\$1,500) or imprisonment for a period not to exceed six (6)
- 20 months, or both; and upon conviction for a third or subsequent offense all of
- 21 which were committed within a period of five (5) years, punishable by a fine not
- 22 less than one thousand five hundred dollars (\$1,500) nor more than two thousand
- 23 dollars (\$2,000) or imprisonment for a period not to exceed six (6) months, or
- 24 both. However, for the purposes of conferring jurisdiction upon courts and judicial
- 25 officers generally, violations of this article shall be deemed misdemeanors and for
- 26 such purpose only all provisions of law relating to misdemeanors shall apply to
- 27 such violations. Each week's continued violation shall constitute a separate
- 28 additional violation.
- 29
- 30 G. In addition to any penalty provided herein or by law, any person in violation of
- 31 this article may be required to restore land to its undisturbed condition and/or
- 32 mitigate on-site and off-site damage from stormwater runoff, sediment or
- 33 pollutants resulting from the violator's activities. In the event that restoration is
- 34 not undertaken within a reasonable time after notice, the SMO may take necessary
- 35 corrective action, the cost of which shall become a lien upon the property until
- 36 paid.
- 37
- 38 H. Under exigent circumstances, if any building or land development activity, minor
- 39 land disturbance activity or permanent stormwater management facility is
- 40 installed, conducted or operated in violation of this article, the Stormwater
- 41 Management Officer may prevent the occupancy of said building or land including
- 42 the withholding of a Certificate of Occupancy. It shall be the obligation of the

property owner to remediate the violation at which time the Stormwater Management Officer shall further consider allowing occupancy of the building or land.

§ 196-13. Fees for services.

Application fees established by Resolution of the Village Board of Trustees shall be submitted with the application. In addition, in accordance with the provisions of Chapter 178 of the Village Code, any person undertaking land development activities regulated by this article shall reimburse the Village for the cost of professional services incurred by the Village for the review of SWPPPs and for the performance of inspections and/or maintenance activities as provided in this article. The Village may establish escrow accounts for these purposes as provided in Chapter 178 of the Village Code.

Article II. Illegal Discharges and Illicit Connections to Separate Storm Sewer System

§196-14. Purpose and objectives.

A. The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Village of Croton-on-Hudson through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants or excess flow into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems.

B. The objectives of this article are:

- (1) To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02 or as amended or revised;
- (2) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- (3) To prohibit illegal discharges and illicit connections to the MS4;
- (4) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- (5) To promote public awareness of the adverse environmental impacts involved in the improper discharge of trash, yard waste, lawn chemicals,

pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§196-15. Definitions.

Whenever used in this article, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs) – Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT – The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

DESIGN PROFESSIONAL – A New York State licensed professional engineer or architect.

EPA – United States Environmental Protection Agency.

HAZARDOUS MATERIALS – Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE – Any direct or indirect non-stormwater discharge to the MS4, except as exempted in §196-18.A of this article.

ILLICIT CONNECTIONS – Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any non-stormwater discharge including but not limited to treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains

and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or

- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

INDIVIDUAL SEWAGE TREATMENT SYSTEM – A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

MS4 – Municipal Separate Storm Sewer System.

MUNICIPAL SEPARATE STORM SEWER SYSTEM – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- A. Owned or operated by the Village of Croton-on-Hudson;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2

NON-STORMWATER DISCHARGE – Any discharge to the MS4 that is not composed entirely of stormwater.

NYSDEC – The New York State Department of Environmental Conservation.

PERSON – Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof.

POLLUTANT – Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may

1 cause or might reasonably be expected to cause pollution of the waters of the State
2 in contravention of the standards.

3
4 **POLLUTANT OF CONCERN** – Sediment or a water quality measurement that
5 addresses sediment (such as total suspended solids, turbidity or siltation) and any
6 other pollutant that has been identified as a cause of impairment of any water body
7 that will receive a discharge from the land development activity.

8
9 **PREMISES** – Any building, lot, parcel of land, or portion of land whether
10 improved or unimproved including adjacent sidewalks and parking strips.

11
12 **SPECIAL CONDITIONS** –

13
14 **A. DISCHARGE COMPLIANCE WITH WATER QUALITY STANDARDS**
15 – The condition that applies where the Village has been notified by the
16 NYSDEC that the discharge of stormwater authorized under their MS4
17 permit may have caused or has the reasonable potential to cause or
18 contribute to the violation of an applicable water quality standard. Under
19 this condition the Village must take all necessary actions to ensure future
20 discharges do not cause or contribute to a violation of water quality
21 standards.

22
23 **B. 303(d) LISTED WATERS** – The condition in the Village's MS4 permit
24 that applies where the MS4 discharges to a 303(d) listed water. Under this
25 condition the stormwater management program must ensure no increase of
26 the listed pollutant of concern to the 303(d) listed water.

27
28 **C. TOTAL MAXIMUM DAILY LOAD (TMDL) STRATEGY** – The
29 condition in the Village's MS4 permit where a TMDL including
30 requirements for control of stormwater discharges has been approved by
31 EPA for a waterbody or watershed into which the MS4 discharges. If the
32 discharge from the MS4 did not meet the TMDL stormwater allocations
33 prior to September 10, 2003, the Village was required to modify its
34 stormwater management program to ensure that reduction of the pollutant
35 of concern specified in the TMDL is achieved.

36
37 **D. THE CONDITION IN THE VILLAGE'S MS4 PERMIT THAT APPLIES**
38 **IF A TMDL IS APPROVED IN THE FUTURE BY EPA FOR ANY**
39 **WATERBODY OR WATERSHED INTO WHICH AN MS4**
40 **DISCHARGES** – Under this condition the Village must review the
41 applicable TMDL to see if it includes requirements for control of
42 stormwater discharges. If an MS4 is not meeting the TMDL stormwater

allocations, the Village must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)
STORMWATER DISCHARGE PERMIT – A permit issued by the NYSDEC that authorizes the discharge of pollutants to waters of the State.

STORMWATER – Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) – The Village Engineer and his or her designees, and/or such other Village officers or employees as designated by the Village Manager. The Westchester County Department of Health presently is and shall continue to be the enforcement authority for the design, repair, replacement and operation of individual sewage treatment systems within the MS4.

303(d) LIST – A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the DEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMLD) – The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

VILLAGE – The Village of Croton-on-Hudson, New York.

WASTEWATER – Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§196-16. Applicability.

This article shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§196-17. Administration and enforcement.

1 The Stormwater Management Officer(s) shall administer, implement and enforce
2 the provisions of this law. Such powers granted or duties imposed upon the
3 SMO(s) may be delegated by the SMO(s) as may be authorized by the Village
4 Manager.

5
6
7 **§196-18. Prohibition on illegal discharges and illicit connections.**

8
9 A. Prohibition of illegal discharges. No person shall discharge or cause to be
10 discharged into the MS4 any materials other than stormwater except as
11 provided in §196-18.A. The commencement, conduct or continuance of
12 any illegal discharge to the MS4 is prohibited except as described as
13 follows:

14
15 (1) The following discharges are exempt from discharge prohibitions
16 established by this article, unless the NYSDEC or the Village Board
17 of Trustees by resolution has determined them to be substantial
18 contributors of pollutants: water line flushing or other potable water
19 sources, landscape irrigation or lawn watering, existing diverted
20 stream flows, rising ground water, uncontaminated ground water
21 infiltration to storm drains, uncontaminated pumped ground water,
22 foundation or footing drains, crawl space or basement sump pumps,
23 air conditioning condensate, irrigation water, springs, water from
24 individual residential car washing, natural riparian habitat or wetland
25 flows, dechlorinated swimming pool discharges, residential street
26 wash water, water from fire fighting activities, and any other water
27 source not containing pollutants.

28
29 (2) Discharges approved in writing by the SMO to protect life or
30 property from imminent harm or damage, provided that, such
31 approval shall not be construed to constitute compliance with other
32 applicable laws and requirements, and further provided that such
33 discharges may be permitted for a specified time period and under
34 such conditions as the SMO may deem appropriate to protect such
35 life and property while reasonably maintaining the purpose and
36 intent of this article.

37
38 (3) Dye testing in compliance with applicable state and local laws is a
39 allowable discharge, but requires a verbal notification to the SMO at
40 least 24 hours prior to the time of the test.
41

- 1 (4) The prohibition shall not apply to any discharge permitted under a
2 SPDES permit, waiver, or waste discharge order issued to the
3 discharger and administered under the authority of the NYSDEC,
4 provided that the discharger is in full compliance with all
5 requirements of the permit, waiver, or order and other applicable
6 laws and regulations, and provided that written approval has been
7 granted for any discharge to the MS4.
8

9 B. Prohibition of illicit connections.

- 10
11 (1) The construction, use, maintenance or continued existence of illicit
12 connections to the MS4 is prohibited.

- 13
14 (2) This prohibition expressly includes, without limitation, illicit
15 connections made in the past, regardless of whether the connection
16 was permissible under law or practices applicable or prevailing at
17 the time of connection.

- 18
19 (3) A person is considered to be in violation of this article if the person
20 connects a line conveying sewage or any other wastewater discharge
21 to the Village's MS4, or allows such a connection to continue.
22

23 **§196-19. Prohibition against activities contaminating stormwater.**

24
25 A. Activities that are subject to the requirements of this section include:

- 26
27 (1) Activities that cause or contribute to a violation of the Village's MS4
28 SPDES permit.

- 29
30 (2) Activities that cause or contribute to the Village being subject to the
31 Special Conditions as defined in §196-15, Definitions, of this article.
32

33 B. Upon notification to a person that he or she is engaged in activities that
34 cause or contribute to violations of the Village's MS4 SPDES permit
35 authorization, that person shall take all reasonable actions to correct such
36 activities such that he or she no longer causes or contributes to violations of
37 the Village's MS4 SPDES permit authorization.
38

39 **§196-20. Use of best management practices required.**

40
41 A. Where the SMO has identified illegal discharges as defined in §196-15 or
42 activities contaminating stormwater as defined in §196-19, the Village may

require implementation of best management practices (BMPs) to control those illegal discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

(2) Any person responsible for a property or premise, which is, or may be, the source of an illegal discharge as defined in §196-15 or an activity contaminating stormwater as defined in §196-19, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

B. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

§196-21. Suspension of access to MS4.

A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

1 B. Suspension due to the detection of illegal discharge. Any person
2 discharging to the Village's MS4 in violation of this article may have their
3 MS4 access terminated if such termination would abate or reduce an illegal
4 discharge. The SMO will notify a violator in writing of the proposed
5 termination of its MS4 access and the reasons therefore. The violator may
6 petition the SMO for a reconsideration. Access may be granted by the
7 SMO, with or without conditions, if he/she finds that the illegal discharge
8 has ceased and the discharger has taken steps to prevent its recurrence.
9 Access may be denied if the SMO determines in writing that the illegal
10 discharge has not ceased or is likely to recur. A person commits an offense
11 if the person reinstates MS4 access to premises terminated pursuant to this
12 section, without the prior approval of the SMO.

13
14 **§196-22. Industrial or construction activity discharges.**

15
16 Any person subject to an industrial or construction activity SPDES stormwater
17 discharge permit shall comply with all provisions of such permit. Proof of
18 compliance with said permit may be required in a form acceptable to the Village
19 prior to the allowing of discharges to the MS4. All reports submitted to the
20 NYSDEC as required by the SPDES permit shall also be contemporaneously
21 transmitted to the SMO.

22
23
24 **§196-23. Access to property; inspection; monitoring of discharges.**

25
26 A. Applicability. This section applies to all facilities that the SMO must
27 inspect to enforce any provision of this article, or whenever the authorized
28 enforcement agency has cause to believe that there exists, or potentially
29 exists, in or upon any premises any condition which constitutes a violation
30 of this article.

31 B. Access to facilities.

32
33 (1) The SMO shall be permitted to enter and inspect facilities subject to
34 regulation under this article as often as may be necessary to
35 determine compliance with this article. If a discharger has security
36 measures in force which require proper identification and clearance
37 before entry into its premises, the discharger shall make the
38 necessary arrangements to allow access to the SMO.

39
40 (2) Facility operators shall allow the SMO ready access to all parts of
41 the premises for the purposes of inspection, sampling, examination
42 and copying of records as may be required to implement this article.

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42

- (3) The Village shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge or conduct other testing as deemed necessary by the SMO.
- (4) The Village has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Unreasonable delays in allowing the Village access to a facility subject to this article is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§196-24. Notification of spills.

Notwithstanding other requirements of this article, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village in person or by telephone or facsimile no later than the next business day. Notifications in

1 person or by telephone shall be confirmed by written notice addressed and mailed
2 to the Village within three business days of the telephone notice. If the discharge
3 of prohibited materials emanates from a commercial or industrial establishment,
4 the owner or operator of such establishment shall also retain an on-site written
5 record of the discharge and the actions taken to prevent its recurrence. Such
6 records shall be retained for at least three (3) years. Appropriate State and Federal
7 agencies shall also be notified as per applicable regulations.
8

9 **§196-25. Enforcement and penalties.**

- 10
- 11 A. Notice of violation. When the SMO finds that a person has violated a
12 prohibition or failed to meet a requirement of this article, the SMO may
13 order compliance by written notice of violation to the responsible person.
14 Such notice may require without limitation:
15
- 16 (1) The elimination of illicit connections or illegal discharges;
17
- 18 (2) That violating discharges, practices, or operations shall cease and
19 desist;
20
- 21 (3) The abatement or remediation of stormwater pollution or
22 contamination hazards and the restoration of any affected property;
23
- 24 (4) The performance of monitoring, analyses, and reporting; and
25
- 26 (5) The implementation of source control or treatment BMPs.
27
- 28 B. If abatement of a violation and/or restoration of affected property is
29 required, the notice shall set forth a deadline within which such remediation
30 or restoration must be completed. Said notice shall further advise that,
31 should the violator fail to remediate or restore within the established
32 deadline, the work will be done by the Village or a contractor designated
33 by the Village and the expense thereof shall be charged to the violator.
34
- 35 C. If the violation has not been corrected pursuant to the requirements set forth
36 in the Notice of Violation, then the SMO shall request the owner's
37 permission for access to the subject private property to take any and all
38 measures reasonably necessary to abate the violation and/or restore the
39 property.
40
- 41 D. If refused access to the subject private property, the SMO may seek a
42 warrant in a court of competent jurisdiction to be authorized to enter upon

1 the property to determine whether a violation has occurred and remains
2 unabated. Upon determination that a violation has occurred and remains
3 unabated, the SMO may seek a court order to take any and all measures
4 reasonably necessary to abate the violation and/or restore the property. The
5 cost of implementing and maintaining such measures shall be the sole
6 responsibility of the discharger.

7
8 E. Within thirty (30) days after abatement of the violation by, or under
9 authorization of the SMO, the owner of the property will be notified of the
10 cost of abatement, including administrative costs. The property owner may
11 file a written protest with the Village Board of Trustees objecting to the
12 amount of the assessment within ten (10) days of receipt of said notice. If
13 the amount due is not paid within thirty (30) days after the disposition of
14 any protests or the expiration of the time to file an appeal, whichever is
15 earlier, the charges shall become a lien on the property for the amount of
16 the assessment to be collected in the same manner as real estate taxes.

17
18 F. Any person who violates the provisions of this article shall be guilty of a
19 offense punishable by a fine not less than five hundred dollars (\$500) nor
20 more than one thousand dollars (\$1,000) or imprisonment for a period not
21 to exceed six (6) months, or both; for conviction of a second offense both
22 of which were committed within a period of five (5) years, punishable by a
23 fine not less than one thousand dollars (\$1,000) nor more than one thousand
24 five hundred dollars (\$1,500) or imprisonment for a period not to exceed
25 six (6) months, or both; and upon conviction for a third or subsequent
26 offense all of which were committed within a period of five (5) years,
27 punishable by a fine not less than one thousand five hundred dollars
28 (\$1,500) nor more than two thousand dollars (\$2,000) or imprisonment for
29 a period not to exceed six (6) months, or both. However, for the purposes of
30 conferring jurisdiction upon courts and judicial officers generally,
31 violations of this article shall be deemed misdemeanors and for such
32 purpose only all provisions of law relating to misdemeanors shall apply to
33 such violations. Each week's continued violation shall constitute a separate
34 additional violation.

35
36 **§196-26. Injunctive relief.**

37
38 It shall be unlawful for any person to violate any provision or fail to comply with
39 any of the requirements of this article. If a person has violated or continues to
40 violate the provisions of this article, the SMO may request the Village Attorney to
41 petition for a preliminary or permanent injunction restraining the person from

activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§196-27. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§196-28. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable Federal, State or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

§196-29. Severability.

If any provision of this chapter or of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid for any reason by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter."

SECTION 2. Section 230-133 of the Code of the Village of Croton-on-Hudson is hereby amended by relettering subdivision E as subdivision F and by adding a new subdivision E to read as follows:

- E. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 196, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any preliminary subdivision plat approval that qualifies as or authorizes a land development activity as defined in Chapter 196, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 196, Article I. The approved preliminary subdivision plat shall be consistent with the provisions of Chapter 196, Article I.

SECTION 3. Subdivision A of Section 230-134 of the Code of the Village of Croton-on-Hudson is hereby amended by adding a new (6) to read as follows:

- 1
- 2 (6) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the
- 3 requirements of Chapter 196, Article I, Stormwater Management and
- 4 Erosion and Sediment Control, shall be required for any final subdivision
- 5 plat approval that qualifies as or authorizes a land development activity as
- 6 defined in Chapter 196, Article I. The SWPPP shall meet the performance
- 7 and design criteria and standards in Chapter 196, Article I. The approved
- 8 final subdivision plat shall be consistent with the provisions of Chapter 196,
- 9 Article I.

10

11 **SECTION 4. Subdivision D of Section 230-69 of the Code of the Village**

12 **of Croton-on-Hudson is hereby amended by adding a new (6) to read as**

13 **follows:**

- 14
- 15 (6) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the
- 16 requirements of Chapter 196, Article I, Stormwater Management and
- 17 Erosion and Sediment Control shall be required for any site development
- 18 plan approval that qualifies as or authorizes a land development activity as
- 19 defined in Chapter 196, Article I. The SWPPP shall meet the performance
- 20 and design criteria and standards in Chapter 196, Article I. The approved
- 21 site development plan shall be consistent with the provisions of Chapter
- 22 196, Article I.

23

24 **SECTION 5. Section 230-57 of the Code of the Village of Croton-on-**

25 **Hudson is hereby amended by adding a new subdivision F to read as follows:**

- 26
- 27 F. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the
- 28 requirements of Chapter 196, Article I, Stormwater Management and
- 29 Erosion and Sediment Control shall be required for any special permit
- 30 approval that qualifies as or authorizes a land development activity as
- 31 defined in Chapter 196, Article I. The SWPPP shall meet the performance
- 32 and design criteria and standards in Chapter 196, Article I. The approved
- 33 special permit shall be consistent with the provisions of Chapter 196,
- 34 Article I.

35

36 **SECTION 6. Subdivision A of Section 208-17 of the Code of the Village**

37 **of Croton-on-Hudson is hereby amended by adding a new (8) to read as**

38 **follows:**

- 39
- 40 (8) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the
- 41 requirements of Chapter 196, Article I, Stormwater Management and
- 42 Erosion and Sediment Control shall be required for any tree removal permit

1 that qualifies as or authorizes a land development activity as defined in
2 Chapter 196, Article I. The SWPPP shall meet the performance and design
3 criteria and standards in Chapter 196, Article I. The approved tree removal
4 permit shall be consistent with the provisions of Chapter 196, Article I.
5

6 **SECTION 7. Chapter 118 of the Code of the Village of Croton-on-**
7 **Hudson entitled "Erosion and Sediment Control" is hereby repealed.**
8

9 **SECTION 8. This local law shall take effect immediately upon filing**
10 **with the Office of the Secretary of State of New York State in accordance**
11 **with the provisions of the Municipal Home Rule Law."**
12
13

14 [Editorial Note: Similar provisions will be incorporated in the Steep Slopes law
15 and the Excavation, Filling and Topsoil law, as appropriate, and have been added
16 to the Wetlands law which is now pending before the Board of Trustees for final
17 approval.]
18

19 *Mayor Schmidt opened the Public Hearing to consider Introductory Local Law No. 6 of*
20 *2006 Repealing Chapter 227 Entitled "Wetlands and Watercourses."*
21

22 Village Manager, Richard Herbek, advised that the purpose of this Local Law is to repeal
23 the existing Chapter 227 and approve a new Chapter 227 in its place. Mr. Herbek gave an
24 overview of the Legislative Findings and Intent.
25

26 Fran Allen, 7 Finney Farm Road, Croton, stated that in the current Law; when a wetland
27 was identified there was a 20 foot prohibited buffer zone and then beyond that a 100 foot
28 minimum activity set-back and there were different things that could be done in each of
29 these. Ms. Allen said that it appears that the new Law combines a total of 120 feet and is
30 treating all of the 120 feet the same way. Ms. Allen said that there are now activities that
31 would be permitted without a permit and those are the ones that concern her the most.
32 Ms. Allen directed the Board to Section 227-6 "Activities Permitted by Right without a
33 Permit" K. "Depositing herbicides, pesticides or fertilizers in a wetland buffer in
34 accordance with manufacturers' recommendations and accepted horticultural practices."
35 Ms. Allen said that this could cause severe damage to our wetlands and streams. Ms.
36 Allen said that not having a 20 foot prohibited buffer where actions are not permitted the
37 Village is opening it up to polluting the waters and it is a mistake to get rid of this
38 prohibited buffer zone.
39

40 Mr. Stolman said that one of the reasons why the 20 foot prohibited buffer zone was
41 removed was because it actually was a misnomer; it was never an area that was totally
42 prohibited; it was not a sacred area where you couldn't go in and do anything, and it
43 seemed better to call it what it actually is. Mr. Stolman stated that if someone is

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1 depositing anything in a wetland buffer zone someone would have to show that they are
2 doing it in accordance with the manufacturers' specifications. Mr. Stolman said that this
3 law would not undo agreements with respect to the Golf Course and if there are
4 requirements that are more stringent they will continue to remain in place.

5
6 Trustee Kane said that he felt it would be very difficult to enforce this and very difficult
7 to determine whether someone is using the manufacturer's directions in the application of
8 herbicides and pesticides and they could harm our water supply.

9
10 Mr. Stolman said that we would have to depend on someone reporting it to the
11 enforcement entity and it would be looked at and stopped. Mr. Stolman stated that there
12 are some wetland areas that are on homeowner's lawns and is not sure that the Village
13 would want to make the normal application of herbicides, pesticides and fertilizers in
14 every situation subject to getting a permit.

15 Trustee Kane said he would rather be conservative with this and suggested striking "K"
16 from Section 227-6 for safety reasons.

17
18 Mayor Schmidt asked Trustee Kane if his intention is for everyone to apply for a permit.
19 Mayor Schmidt said that he is not saying that this is not what we want to do, but this is a
20 big step and to what degree do we want to regulate the homeowner.

21
22 Trustee Gallelli asked how this law differs from the previous law with regard to fertilizers
23 and chemicals.

24
25 Dan O'Connor, Village Engineer, said that the existing law allowed for normal ground
26 maintenance without a permit that did not include chemical fertilizers; activities that
27 required a permit were application of chemicals, herbicides, or other growth regulating
28 agents, and gardening in the minimum setback area only in accordance to State and local
29 laws and ordinances.

30
31 Trustee Gallelli said that the definition of wetlands in the new law is 5,000 square feet
32 and not all lawns are 5,000 square feet.

33
34 Trustee Kane said that this would be a typical Village lot.

35
36 Chuck Trendell, 39 Batten Road, Croton said that the biggest worry would be Hudson
37 National in terms of affecting the water supply but understands that they have to be
38 licensed by the State.

39
40 Trustee Gallelli said that in the case of Hudson National only licensed applicators can do
41 this type of work and they have to keep extensive records that must be submitted to the
42 State on an a regular basis; the Village also receives copies of these records.

43
44 Mr. Trendell said that he understands that it is hard to pass a law that is difficult to
45 enforce.

46

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1 Mayor Schmidt said that Mr. Trendell is a classic example because his home is in a
2 wetland area and if Mr. Trendell wanted to fertilize his lawn he would have to apply for a
3 permit and this is the question that the Board has to decide as to what we want to require
4 from residents.

5
6 Trustee Kane said that every study he has seen about the industry concerning pesticides,
7 herbicides and fertilizers; is that homeowners use too much of these products and he
8 would err on the side of conservatism.

9
10 Mr. Stolman said that it is not just the definition of wetlands; it is also the buffer that
11 surrounds it so we are talking about quite a lot of area. Mr. Stolman said that the
12 justification may well have been the enforcement issue.

13
14 Mr. O'Connor said that he has been with the Village for five years and no permits for
15 gardening and application to use chemicals, fertilizers, herbicides, etc. have been
16 submitted. Mr. O'Connor said that under the new Wetland Law, we went from a quarter
17 acre down to 5,000 square feet which does a great deal to protect the Village's wetlands
18 and water courses. Mr. O'Connor also advised that we went from flowing four months
19 out of the year down to three months of the year which adds a little more protection to the
20 water courses throughout the Village. Mr. O'Connor said that to map all wetlands in the
21 Village we would have to go on everyone's property and it is not something that we can
22 feasibly do. Mr. O'Connor said that at the State and Federal level the more dangerous
23 chemicals have been taken out of the hands of residents and this is really an enforcement
24 issue and suggested that we reach the residents through public awareness campaigns
25 encouraging residents to use fewer chemicals.

26
27 Mayor Schmidt said that even the proper application of chemicals can still end up in our
28 water courses because if you have a piece of property that is severely slopped it can be
29 applied at the top of your property, well outside of the 120 foot buffer, and it will still end
30 up in the water course. Mayor Schmidt said that all of our herbicides and pesticides end
31 up there anyhow regardless of where you live. Mayor Schmidt said that he agreed with
32 Mr. O'Connor that it is a public education issue and that is the direction the Village
33 should go.

34
35 Mr. O'Connor said that significant testing at the golf course has shown that there isn't a
36 migration if pesticides, herbicides and fertilizers when applied properly; most products
37 now are biodegradable or have a short life and end up breaking down in the environment
38 where they are applied. Mr. O'Connor said that of course if they are applied incorrectly
39 right after a rainstorm they will wash off but if applied properly a lot of the chemicals do
40 break down.

41
42 Trustee Kane said that allowing the activity as a "right" increases the odds of problems
43 down the road. Trustee Kane said that this was in the old law and it wasn't a problem.

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1 Mr. O'Connor said that it was in the old law but within the last five years he cannot recall
2 one application being made for a permit. Mr. O'Connor said that of course it is up to the
3 Board, but if you chose to regulate it then the question is how and what criteria we use.
4 Mr. O'Connor said that the Village does not have the time or the manpower to chase
5 everyone coming back from a hardware store with a bag of fertilizer and try to figure out
6 where the wetland is. Mr. O'Connor said that in many instances we do not know where
7 the wetlands are; some residents may have a wet portion of their lawn and unless we hire
8 someone who can delineate a wetland it will be a problem. Mr. O'Connor said that
9 before you go out and tell a resident that they cannot do something, first you have to
10 know where the wetlands are.

11
12 Trustee Brennan said that the argument makes sense but it seems impractical.

13 Mayor Schmidt said that it would add a burden to the engineering office to keep track of
14 this.

15
16 Trustee Gallelli said that there are many laws that don't get enforced regularly however
17 the presence of the law provides a back-up in the event there is an error or a significant
18 transgression.

19
20 Mayor Schmidt said that we have that already; if they don't do it in accordance with the
21 manufacturer's regulations then you can go after them. Mayor Schmidt said that most
22 residents hire professionals to do it for them.

23
24 Trustee Kane asked how the Village would prove that the application was not used
25 according to manufacturer's directions.

26
27 Mayor Schmidt said that he understands the concern, but it is really an enforcement issue.

28
29 Fran Allen said that the logic is not making any sense to her; there are plenty of laws on
30 our books that are basically unenforceable but this law would serve the purpose of
31 pointing out that we cannot pollute our streams and have the safety of our children
32 comprised just because we cannot enforce it. Ms. Allen said that we worked hard, to
33 make sure that the stuff coming off the golf course is okay, but she is not so sure about
34 the homes that have been built along the golf course. Ms. Allen said that she would like
35 to feel that we had a law on the books that if we discovered that the water was being
36 polluted we would have laws that would enable us to go and find it and trace it back to
37 where it happened.

38
39 Trustee Gallelli stated that this law would not do this because this regulated activity only
40 applies to wetland areas; you can have many lawns and yards that are not anywhere near
41 a wetland or a water course but because they are up a hill everything is going to come
42 down and might eventually get into our water courses.

1

2 Trustee Konig said that the law provides that if these chemicals are not used according to
3 instructions and if there was a problem then it could be traced back to people who are just
4 dumping without any responsibility. Trustee Konig said that we should concentrate on
5 public awareness and education.

6

7 Trustee Gallelli suggested that maybe the Board should go back, discuss if further and
8 hold it over for one more meeting.

9

10 Mayor Schmidt said that the concern of our Village Engineer is very valid; how many
11 households would be affected by this and mapping out all those areas would be such an
12 onerous task. Mayor Schmidt said that the law clearly states that if you are going to use
13 these chemicals you must use them according to the manufacturer's directions and if you
14 don't there are fines in the end. Mayor Schmidt said that he does not agree with Ms.
15 Allen's comment that "the golf course was built in such a way that none of those
16 chemicals come down". Mayor Schmidt said that maybe not to the degree that we
17 thought it could but those chemicals come down off that hill and there is runoff from the
18 golf course. Mayor Schmidt said that anytime we disturb the land we are disturbing
19 everything and anything subsequent to that. Mayor Schmidt said that this law provides
20 the best mitigation at this time and that it can always be changed later on and toughened
21 up if the Village finds that there is a problem moving forward. Mayor Schmidt said that
22 given Croton's long history of being an environmentally conscious community; I think
23 we will see residents being very protective of our wetlands.

24

25 Trustee Gallelli said that the if the issue is that anytime we do anything we are affecting
26 other people then maybe the general use of herbicides and pesticides as a general
27 principal does not belong in this law.

28

29 Mr. Stolman commented that the Board would have to check with their legal counsel but
30 one of the issues the Board would have to examine is whether the State has preempted the
31 regulation of herbicides and pesticides.

32

33 Trustee Gallelli said that we should have a general rule across the board that whenever
34 chemicals are applied it must be in accordance with the State or manufacturers
35 regulations.

36

37 Trustee Brennan stated that he understands Trustee Kane's point on this but there is some
38 impracticality to enforcement.

39

40 Trustee Kane said that he feels very strongly that we should not give anyone the "as of
41 right" to put pesticides, herbicides and fertilizers within the 120 foot buffer zones.

42

1 Mayor Schmidt asked Trustee Kane how he would regulate this.

2
3 Trustee Kane responded by saying "by permit" and suggested striking K in Section 227-
4 6.

5
6 Trustee Brennan said that if someone does apply for a permit and they still break the
7 regulations and rules of the permit how do we enforce it.

8
9 Trustee Kane said that the Village has recourse to trace the chemicals back.

10
11 Trustee Konig said that we have recourse now; if there is runoff then they are obviously
12 not doing it according to the manufacturer's recommendations.

13
14 Dan O'Connor said that he understands the concerns, but enforcement is the real issue,
15 not only from a time standpoint of mapping wetlands, mapping buffer zones, surveying,
16 professional assistance, issues of going onto private property, but also responding to
17 complaints and the procedures to determine what chemicals were used. Mr. O'Connor
18 said that this would include taking a grid of soil samples over the whole area, having the
19 soil tested by a lab that would enable the Village to gather sufficient evidence to go to
20 court. Mr. O'Connor said that this would cost the Village thousands of dollars for a fine
21 that is only \$250.00. Mr. O'Connor said that he felt that the most important thing for
22 Croton is a Village-wide public education program.

23
24 Mayor Schmidt said that what we have in front of us provides some enforcement and
25 while it may not be the ideal enforcement we can continue to look at tougher laws in the
26 future.

27
28 Ms. Allen said that public education is "dead on arrival" if you can open the codebook
29 and see that you have "a right" to put pesticides and herbicides in the 120 foot buffer
30 zone.

31 Mayor Schmidt said that the law says that you may do this only "according to
32 manufacturer's recommendations". Mayor Schmidt asked why we would prevent
33 someone from using pesticides and herbicides within a 120 buffer versus someone using
34 these chemicals upstream or upland of a water course when we know that it will
35 eventually end up in our water courses. Mayor Schmidt said that if you are going to
36 make it so restrictive for some then we should make it as restrictive for everyone. Mayor
37 Schmidt said that the Village Engineer has made his point very clear that the enforcement
38 of this would be so onerous and extremely difficult. Mayor Schmidt said that this is an
39 important step, the new law makes it tougher on many levels and we have dropped
40 thresholds in terms of how much disturbance is allowed.

41

1 Trustee Kane said that he felt that this law is less restrictive with paragraph; 227-6K.

2
3 Mr. Stolman said that perhaps theoretically but not practically because it was
4 unenforceable.

5
6 Mayor Schmidt said that we could write any law we want but we must be able to enforce
7 them. Mayor Schmidt said that if we adopt this law we can always look at other things
8 that can add to this law to help control this issue.

9
10 Trustee Gallelli said that the arguments on both sides have been very good and during the
11 years when she was Planning Board Chairman one of the things that she tried to prevent
12 from happening was passing things that were unenforceable. Trustee Gallelli added that
13 a big improvement in this law is the streamlining for people who are seeking site plan
14 and/or sub-division approvals and the process also strengthens the Water Control
15 Commission substantially.

16
17 Trustee Konig commented that she feels that the public education is very important and
18 hopes that the residents who are watching will have learned something and we can move
19 forward on the education process.

20
21 There being no further comments to come before the Board a motion to close the public
22 hearing was made by Trustee Gallelli and seconded by Trustee Konig and approved
23 unanimously.

24
25
26 On motion of TRUSTEE KONIG seconded by TRUSTEE BRENNAN, the Board of
27 Trustees of the Village of Croton on Hudson hereby adopt a Local Law Amending
28 Chapter 227 of the Code of the Village of Croton on Hudson entitled "Wetlands and
29 Watercourses" as follows:

30 Trustee Konig Aye, Trustee Kane Nay, Trustee Gallelli Aye,
31 Trustee Brennan Aye, Mayor Schmidt Aye.

32 Local Law No. 4 of 2007

33 **LOCAL LAW AMENDING CHAPTER 227 OF THE CODE OF THE VILLAGE**
34 **OF CROTON ON HUDSON**

35
36 **SECTION 1. Chapter 227 of the Code of the Village of Croton-on-Hudson entitled**
37 **"Wetlands and Watercourses" is repealed.**

38
39 **SECTION 2. A new Chapter 227 of the Code of the Village of Croton-on-**
40 **Hudson entitled "Wetlands" is added to read as follows:**

1 **“Chapter 227: WETLANDS**

2 **§ 227-1. Legislative findings.**

3 The Board of Trustees of the Village of Croton-on-Hudson finds that growth of
4 population and attendant residential and commercial development and increasing
5 demands upon natural resources have the potential of encroaching upon, despoiling,
6 polluting or eliminating many of the wetlands, water bodies and watercourses of the
7 Village which, if preserved, constitute important physical, economic, social, historic,
8 archaeological, aesthetic, recreational and ecological assets to present and future residents
9 of the Village and provide important beneficial functions, including natural flood and
10 stormwater control, groundwater recharge, natural pollution treatment, erosion and
11 sediment control, wildlife habitat creation, recreation and open space enhancement and
12 educational opportunities.

13 **§ 227-2. Legislative intent.**

14 It is the intent of this chapter to protect the public interest, general health, safety,
15 economic and general welfare of the citizens of the Village by providing for the
16 protection, preservation, proper maintenance and use of its wetlands, water bodies and
17 watercourses by preventing damage from erosion or siltation, minimizing disturbance,
18 preserving natural habitats and protecting against flood and pollution and otherwise
19 protecting the quality of such areas for their conservation, economic, aesthetic,
20 recreational and other public uses and values. Further, it is the intent of this chapter to
21 protect the surface and groundwater resources wholly and partly within the Village from
22 the threat of pollution, misuse or mismanagement. Therefore, because all wetlands, water
23 bodies and watercourses are presumed to be of importance, it is hereby declared that the
24 regulation of wetland and wetland buffer areas of the Village, as defined in § 227-3 of
25 this chapter and as this chapter becomes effective relative to any specific area as
26 described herein, is essential to the health, safety, economic and general welfare of the
27 citizens of the Village.

28 **§ 227-3. Definitions.**

29 As used in this chapter, the following terms, phrases or words and their derivations shall
30 have the meanings given herein:

31 AGRICULTURE — The act of raising crops for economic gain; as further defined in 6
32 NYCRR 663.2(c).

33 APPLICANT — Any individual or individuals, firm, partnership, association,
34 corporation, company, organization or other legal entity of any kind, including municipal
35 corporations, governmental agencies or subdivisions thereof, filing an application
36 pursuant to this chapter.

1 APPROVING AUTHORITY — the Planning Board, Water Control Commission, or the
2 Village Engineer as specified in § 227-7G.

3 BOARD OF TRUSTEES — The Board of Trustees of the Village of Croton-on-Hudson.

4 CLEAR-CUTTING — The cutting of more than ten (10) trees with a DBH of four (4)
5 inches or greater on a lot, within any twelve (12) month period.

6 DEPOSIT — To fill, place, eject or dump any liquid, solid or gaseous material, or the act
7 thereof, but not including stormwater.

8 DIAMETER AT BREAST HEIGHT (DBH) — The diameter of a tree measured at a
9 point four and a half feet above the ground, or at the highest point of the remaining stump
10 if less than four and a half feet, on the uphill side of the tree.

11 FRESHWATER WETLANDS MAP — The final Freshwater Wetlands Map
12 promulgated by the New York State Department of Conservation as defined in 6 NYCRR
13 663.2(p).

14 HYDRIC SOIL — A soil that is saturated, flooded or ponded long enough during the
15 growing season to develop anaerobic conditions in the upper part, as set forth in the
16 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, prepared by the
17 federal government and as updated from time to time, and as on file with the Village
18 Clerk of the Village of Croton-on-Hudson.

19 HYDROPHYTIC VEGETATION — Plant life growing in water or on a substrate that is
20 at least periodically deficient in oxygen as a result of excessive water content as set forth
21 in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, prepared
22 by the federal government and as updated from time to time, and the Wetlands Plants of
23 the State of New York, 1988, published by the United States Fish and Wildlife Service in
24 cooperation with the National and Regional Wetlands Plant List Review Panels, and as
25 updated from time to time, and as on file with the Village Clerk of the Village of Croton-
26 on-Hudson.

27 LOT — Any parcel of land, not necessarily coincident with a lot or lots shown on a map
28 of record, which is occupied or which is to be occupied by a building and its accessory
29 buildings, if any, or by a group of buildings having any land in common and the buildings
30 accessory thereto, if any, together with the required open spaces appurtenant to such
31 building or group of buildings.

32 MATERIAL — Substances, including but not limited to soil, silt, gravel, rock, sand, clay,
33 peat, mud, debris and refuse, any organic or inorganic compound, chemical agent or
34 matter (excluding pesticides, herbicides, algicides and agricultural or radioactive wastes
35 to the extent that the same are exempt or regulated exclusively by the State), sewage
36 sludge or effluent or solid waste (industrial or municipal).

1 MITIGATION PLAN – A plan prepared by the applicant which shall specify mitigation
2 measures that provide for replacement wetlands and wetlands buffers that recreate as
3 nearly as possible the original wetlands and wetlands buffers in terms of type, function,
4 geographic location and setting.

5 PERSON — Any individual or individuals, firm, partnership, association, corporation,
6 company, organization or other legal entity of any kind, including municipal
7 corporations, governmental agencies or subdivisions thereof.

8 PLANNING BOARD — The Planning Board of the Village of Croton-on-Hudson.

9 POLLUTION — The presence in the environment of human-induced conditions or
10 contaminants in quantities or characteristics which are or may be injurious to human,
11 plant or animal life or to property.

12 REMOVE — To dig, dredge, suck, bulldoze, dragline, blast or otherwise excavate or
13 regrade, or the act thereof.

14 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — Article 8 of the
15 New York State Environmental Conservation Law

16 TREE — A living woody plant with an erect perennial trunk which is four inches or
17 more in DBH.

18 VERNAL POOL — Relatively open areas of surface water formed in depressions within
19 uplands that are inundated to a minimum depth of six inches for three to four months
20 during the growing season (usually March through June) and that are devoid of fish and
21 contain amphibians (adults, egg masses or larval stages) during the growing season.

22 VILLAGE — the Village of Croton-on-Hudson, New York.

23 VILLAGE ENGINEER — The person employed as a Village Engineer of the Village of
24 Croton-on-Hudson, or his or her designee.

25 WATER CONTROL COMMISSION — The Water Control Commission of the Village
26 of Croton-on-Hudson.

27 WATERBODY — Any natural or artificial, permanent or intermittent, public or private
28 water segment such as ponds, lakes or reservoirs, that are contained within, flow through,
29 or border on the Village of Croton-on-Hudson. For purposes of this definition,
30 “intermittent” shall mean that water stands for at least three consecutive months in a 12
31 month period. A water body is intermittently, seasonally or permanently covered by
32 water and contains a discernible shoreline.

33
34 WATERCOURSE — Any natural or artificial, permanent or intermittent, public or
35 private water segment such as rivers, streams, brooks or waterways, that are contained

1 within, flow through, or border on the Village of Croton-on-Hudson. For purposes of this
2 definition, “intermittent” shall mean that water flows for at least three consecutive
3 months in a 12 month period. A drainage ditch, swale or surface feature that contains
4 water only during and immediately after a rainstorm or a snow melt shall not be
5 considered a watercourse.

6
7 WETLANDS—

8 (1) Those geographical areas of 5,000 square feet or more, with the exception of
9 vernal pools as defined in this chapter that are regulated regardless of size,
10 inundated or saturated by surface or ground water at a frequency and duration
11 sufficient to support, and that under normal circumstances do support, a
12 prevalence of vegetation typically adapted for life in saturated soil conditions.
13 Wetlands generally include swamps, marshes, bogs, vernal pools, wet meadows,
14 fens and similar areas. For the purposes of this regulation, wetlands are defined
15 as having one or more of the following characteristics:

16
17 (a) Hydrophytic vegetation

18
19 (b) Hydric soils

20
21 (c) Wetlands hydrology

22
23 (2) Waterbodies shall be encompassed under the term “wetland” as used in this
24 chapter. For purposes of identification, the minimum area requirement of 5,000
25 square feet for the “wetland” definition shall not apply and a minimum area
26 requirement of 2,500 square feet shall apply instead.

27
28 (3) Watercourses shall be encompassed under the term “wetland” as used in this
29 chapter. For purposes of identification, the minimum area requirement of 5,000
30 square feet for the “wetland” definition shall not apply.

31
32 (4) “Wetland” as defined and regulated under this chapter, shall include lands and
33 waters that meet the definition provided in Section 24-0107, Subdivision 1, of the
34 New York State Freshwater Wetlands Act (Article 24 and Title 23 of Article 71 of
35 the Environmental Conservation Law) and have an area of at least 12.4 acres or, if
36 smaller, have unusual local importance as determined by the Commissioner
37 pursuant to Section 24-0301, Subdivision 1, of the Act. The approximate
38 boundaries of such lands and waters are indicated on the Official Freshwater
39 Wetlands Map promulgated by the Commissioner pursuant to Section 24-0301,
40 Subdivision 5, or such a map that has been amended or adjusted pursuant to
41 Section 24-0301, Subdivision 6.

42
43 WETLANDS BUFFER — A specified area surrounding a wetlands, that is intended to
44 provide protection to the wetlands from human activity and other encroachment
45 associated with development. The wetlands buffer shall be determined to be the area

1 extending 120 feet horizontally from and paralleling the outermost wetlands boundary or
2 top of the bank of the watercourse.

3
4 WETLANDS HYDROLOGY — The sum total of wetness characteristics in areas that
5 are inundated or have saturated soils for a sufficient duration to support hydrophytic
6 vegetation.

7 **§ 227-4. Water Control Commission.**

8 A. The Board of Trustees is hereby authorized and empowered to create a Water
9 Control Commission, which shall consist of five resident members, qualified by
10 reason of training or experience in engineering, in water-related science,
11 community planning, conservation, landscape architecture, wildlife management,
12 forestry, ecology, hydrology or other related business or profession.

13
14 B. The members and the Chairman of the Water Control Commission shall be
15 appointed by the Mayor subject to the approval of the Board of Trustees, and the
16 Board of Trustees may authorize and budget for such expenses as may be
17 necessary and proper. Each member of the Commission shall serve for a term of
18 five years, provided that, of the members first appointed, one shall hold office for
19 the term of one year, one for the term of two years, one for the term of three
20 years, one for the term of four years and one for the term of five years. If a
21 vacancy shall occur other than by expiration of a term, it shall be filled by the
22 Mayor, subject to the approval of the Board of Trustees, by appointment to the
23 unexpired term. The Mayor shall, subject to the approval of the Board of
24 Trustees, designate a member of the Commission to act as Chairman thereof, or,
25 on failure so to do, the Commission shall elect a Chairman from its own
26 members.

27
28 C. Meetings of the Commission shall be held at such times as the Commission may
29 determine. All business of the Commission shall be conducted at public
30 meetings. Three members of the Commission shall constitute a quorum for
31 holding a hearing and making a decision on an application. The Commission
32 shall keep minutes of its proceedings, showing the vote of each member upon
33 any question or, if absent or failing to vote, indicating such fact, and shall also
34 keep records of its official actions.

35 D. Every decision, recommendation or determination of the Commission shall be
36 filed in the office of the Village Engineer and shall be a public record. The Water
37 Control Commission shall have the power to adopt, amend and repeal rules and
38 regulations consistent with this chapter governing its procedure and transaction
39 of business consistent with Article 7 of the Public Officers Law. All rules and
40 regulations and amendments or repeal thereof shall take effect immediately upon
41 filing in the office of the Village Manager, after approval by the Board of
42 Trustees.

1 E. The Village Engineer or consulting engineer shall furnish to the Water Control
2 Commission such recommendations and engineering data as the Water Control
3 Commission shall request and require. The Village Engineer or consulting
4 engineer shall advise the Water Control Commission on all other matters within
5 the jurisdiction of the Water Control Commission under this chapter and, upon
6 request of the Water Control Commission, shall be present at the meetings and
7 deliberations of the Water Control Commission.

8 F. The powers and duties of the Water Control Commission under this chapter shall
9 be as follows:

10 (1) The Water Control Commission shall review applications for and take
11 appropriate action on projects submitted within its jurisdiction pursuant to
12 § 227-7 of this chapter, and in accordance with the New York State
13 Environmental Quality Review Act and other applicable laws.

14 (2) The Water Control Commission shall investigate and report upon water
15 conservation and drainage problems referred to it by the Board of
16 Trustees, the Village Planning Board, or the Village Engineer; as directed
17 by the Village Board of Trustees, evaluate Village of Croton-on-Hudson
18 water planning with the planning of adjacent communities, counties and
19 adjacent governmental authorities, and increase public knowledge and
20 awareness of sound wetland management.

21 **§ 227-5. Regulated activities.**

22
23 Except as provided in § 227-6 hereof, it shall be unlawful to conduct, directly or
24 indirectly, any of the following activities upon any wetlands or within the wetlands buffer
25 unless a permit is obtained pursuant to § 227-7 hereof:

26
27 A. Placement or construction of any structure.

28
29 B. Any form of draining, dredging, excavation or removal of material, either directly
30 or indirectly.

31
32 C. Any form of dumping, filling or depositing of material either directly or
33 indirectly.

34
35 D. Installation of any service lines or cable conduits.

36
37 E. Introduction of any form of pollution, including but not limited to the installation
38 of a septic tank, the running of a sewer outfall or the discharging of sewage
39 treatment effluent or other liquid wastes.

40
41 F. Alteration or modification of natural features and contours.
42

- 1 G. Alteration or modification of natural drainage patterns.
- 2
- 3 H. Construction of dams, docks or other water control devices, pilings or bridges,
- 4 whether or not they change the natural drainage characteristics.
- 5
- 6 I. Installation of any pipes or wells.
- 7
- 8 J. Clear cutting.
- 9
- 10 K. Removal or cutting of any vegetation except as permitted in § 227-6C, F and G
- 11 hereof.
- 12
- 13 L. Depositing or introducing of chemicals, including herbicides, pesticides and
- 14 fertilizers, except as permitted in § 227-6K.
- 15
- 16 M. The grazing and watering of one or more horses or other animals other than those
- 17 directly producing agricultural products.
- 18
- 19 N. Any other activity that may impair the natural function(s) of a wetlands as
- 20 described in § 227-1 hereof.
- 21
- 22 O. Decorative landscaping and planting except that decorative landscaping and
- 23 planting in a wetlands buffer shall not require a permit.
- 24

25 **§ 227-6. Activities permitted by right without a permit.**

26

27 The following activities are permitted by right within any wetlands or wetlands buffer:

- 28
- 29 A. The depositing or removal of the natural products of the wetlands by recreational
- 30 or commercial fishing, shellfishing, aquiculture, hunting or trapping where
- 31 otherwise legally permitted.
- 32
- 33 B. Outdoor recreational activity that does not materially alter the natural state of the
- 34 land or require construction, including use of field trails for nature study, hiking,
- 35 swimming, skin diving and boating, where otherwise legally permitted.
- 36
- 37 C. Normal ground maintenance, including mowing, trimming of vegetation and
- 38 removal of dead or diseased vegetation, around a residence except for the use of
- 39 fertilizers, pesticides and herbicides in wetlands.
- 40
- 41 D. Repair of walkways and walls when the work does not involve the use of any
- 42 machinery.
- 43
- 44 E. Operation and maintenance of such dams, retaining walls, terraces, sluices,
- 45 culverts or other water control structures or devices as legally existed on the
- 46 effective date of this chapter.

- 1
- 2 F. Selective trimming and pruning in landscaped areas to improve the health or
- 3 appearance of vegetation.
- 4
- 5 G. Public health activities pursuant to the order of the Westchester County
- 6 Department of Health or New York State Department of Health.
- 7
- 8 H. Any actual and ongoing emergency activity that is immediately necessary for the
- 9 protection and preservation of life or property.
- 10
- 11 I. The growing of crops that directly produce agricultural products.
- 12
- 13 J. The grazing and watering of one or more horses or other animals that directly
- 14 produce agricultural products.
- 15
- 16 K. Depositing herbicides, pesticides or fertilizers in a wetlands buffer in accordance
- 17 with manufacturers' recommendations and accepted horticultural practices.
- 18
- 19 L. Decorative planting in a wetlands buffer.
- 20

21 **§ 227-7. Permits.**

- 22
- 23 A. Any person proposing to conduct or cause to be conducted a regulated activity
- 24 specified in § 227-5 hereof upon any wetlands or wetlands buffer shall file an
- 25 application for a permit with the approving authority as hereinafter provided.
- 26 Such application shall include the following information:
- 27
- 28 (1) The name and address of the property owner and applicant, if different.
- 29
- 30 (2) The street address and tax map designation of the property.
- 31
- 32 (3) A statement of authority from the owner for any agent making application
- 33 for a permit.
- 34
- 35 (4) A statement of the proposed work and purpose thereof.
- 36
- 37 (5) A completed environmental assessment form as required by the New York
- 38 State Environmental Quality Review Act and any other forms as required
- 39 by law.
- 40
- 41 (6) A statement that the property owner and applicant will indemnify and hold
- 42 the Village or its representatives harmless against any damage or injury in
- 43 accordance with § 227-10 hereof.
- 44

- 1 (7) An explanation as to why the proposed activity cannot be located on a
- 2 different portion of the site or on another lot under the applicant's
- 3 ownership or control.
- 4
- 5 (8) A sketch plan to scale.
- 6
- 7 (9) A United States Geological Survey (USGS) topographic map (1:24,000
- 8 scale) 7.5-minute quadrangle with the subject property outlined.
- 9
- 10 (10) Amount of area to be disturbed.
- 11
- 12 (11) Pre- and post-development impervious surface area.
- 13
- 14 (12) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the
- 15 requirements of Chapter 196, Article I, Stormwater Management and
- 16 Erosion and Sediment Control, shall be required for any wetlands permit
- 17 approval that qualifies as or authorizes a land development activity as
- 18 defined in Chapter 196, Article I. The SWPPP shall meet the performance
- 19 and design criteria and standards in Chapter 196, Article I. The approved
- 20 wetlands permit shall be consistent with the provisions of Chapter 196,
- 21 Article I.
- 22
- 23 B. Additional information may be requested by the approving authority, including
- 24 any of the following:
- 25
- 26 (1) A description of all functions currently provided by the wetlands under
- 27 review.
- 28
- 29 (2) Complete plans for the proposed site improvements, which shall be
- 30 certified by an engineer, architect, land surveyor or landscape architect
- 31 licensed in the State of New York, drawn to a scale no less detailed than
- 32 one inch equals 50 feet and showing the following:
- 33
- 34 (a) The location of all wetlands and wetlands buffers as determined by
- 35 a qualified individual no earlier than 12 months prior to the date of
- 36 filing the application. The finite boundaries of a wetlands shall be
- 37 determined by field investigation and flagging after appropriate
- 38 field survey work by qualified individuals in a manner acceptable
- 39 to the approving authority. The boundaries shall subsequently be
- 40 surveyed by a licensed land surveyor unless this requirement is
- 41 waived by the approving authority. The approving authority may
- 42 consult and/or may require the applicant to consult with biologists,
- 43 hydrologists, soil scientists, ecologists/botanists or other experts as
- 44 necessary to make this determination pursuant to the definition
- 45 contained in § 227-3. The survey plan shall be submitted in digital
- 46 format.

- (b) A description of the vegetative cover of the wetlands and wetlands buffer, including dominant species, as well as a survey of all trees of eight (8) inches or more in DBH located wholly or partially in the wetlands buffer.
- (c) A description of the soil types on site and a copy of the Soil Conservation Service (SCS) map with the subject property outlined.
- (d) The location of the construction area or area proposed to be disturbed, and its relation to property lines, roads, buildings, and wetlands within 250 feet.
- (e) The exact locations, details, specifications and amount of all pre- and post- development proposed draining, fill, grading, dredging and vegetation removal or displacement, and the procedures to be used to undertake such work.
- (f) The location of any wells and the depths thereof, and any sewage disposal system within 50 feet of the areas to be disturbed.
- (g) The existing and proposed contours at two-foot intervals in the proposed disturbed area and to a distance of 50 feet beyond such area; and elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than five feet.
- (h) Details of any temporary or permanent drainage system proposed both for the conduct of work and after completion thereof, including locations at any point discharges, artificial inlets or other human-made conveyances that would discharge into the wetlands or wetlands buffer, and measures proposed to control erosion both during and after completion of the work.
- (i) Where creation of a lake or pond is proposed, details of the construction of any dams, embankments, outlets or other water control devices and analysis of the wetlands hydrologic system, including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology and groundwater conditions.
- (j) Where creation of a detention basin is proposed, with or without excavation, details of the construction of any dams, berms, embankments, outlets or other water control devices and an analysis of the wetlands hydrologic system, including seasonal water fluctuation, inflow/outflow calculations and subsurface soil, geology, and groundwater conditions.

- (3) Copies of all applicable county, state or federal permits or permit applications that are required for such work or, if none have been submitted at the time of wetlands permit application, a list of all permits that will ultimately be required.
 - (4) A list of the names to whom notice of the application was sent, as specified in § 227-7E.
 - (5) Additional information as needed, such as the study of flood, erosion or other hazards at the site and the effect of any protective measures that might be taken to reduce such hazards; and other information deemed necessary to evaluate the proposed use in terms of the goals and standards of this chapter.
 - C. An application fee in an amount set forth by resolution of the Board of Trustees shall be submitted with the application.
 - D. All information relating to a permit application, including but not limited to the application itself, additional required materials or information, notices, record of hearings, written comments and findings, shall be maintained on file in the office of the Village Engineer.
 - E. For applications to the Planning Board as approving authority, the Village shall publish a notice of such application in the Village's official newspaper(s). For applications to the Planning Board, the Village shall also notify, in writing, all property owners of record within 200 feet of the boundary of the property on which the proposed regulated activity will be located, as shown in the Village Tax Assessor's office, of the filing of the wetlands permit application. For applications to the Water Control Commission as approving authority, the Village shall, within 10 days after filing the application, notify, in writing, all property owners of record within 200 feet of the boundary of the property on which the proposed regulated activity will be located.
 - F. The approving authority for all applications shall be the Water Control Commission, except as follows:
 - (1) The Planning Board shall be the approving authority for any application involving property that is also the subject of a pending site plan, minor site plan, subdivision or special permit application, or fill or excavation permit, in accordance with the Code of the Village of Croton-on-Hudson, and for any application that also involves the construction or establishment of a principal building or use.
 - (2) The Village Engineer shall be the approving authority for any of the following activities proposed to be conducted on property not subject to

regulation by the State of New York, and no public hearing shall be required:

- (a) Removing water-deposited silt and/or other material in order to restore the preexisting land elevations, provided that the total amount removed does not exceed 15 cubic yards of material.
- (b) Restoring land elevations that have been altered by erosion or storm damage.
- (c) The construction, expansion or improvement of private residential or recreational facilities, as otherwise legally permitted, provided that the total amount of material deposited, removed or regraded does not exceed 15 cubic yards.
- (d) The construction of driveways not associated with any other construction approvals where alternative means of access are proved to be impractical, provided that the amount of material to be deposited or regraded in connection with such construction does not exceed 100 cubic yards.
- (e) The use of harmless chemicals, dyes and other similar substances to maintain or study any wetland.
- (f) Decorative landscaping and planting in wetlands when covering less than 1/10 of an acre.

- (3) Where the Water Control Commission or Village Engineer initiates a review of an application submitted pursuant to this chapter and determines that because of the scope, nature, location or potential environmental impact of the action which could result from approval of the wetlands permit a public hearing would be either necessary or appropriate, the application shall be immediately forwarded to the Planning Board for public hearing, whereupon the Planning Board shall become the approving authority for such application.

- G. The Planning Board, upon receipt of an application meeting the requirements of this section, shall refer the application submitted to it, as the approving authority pursuant to this chapter, to the Water Control Commission for review and report. The Water Control Commission shall report to the Planning Board within 30 days of the referral date or within such other period as may be specified by the Planning Board. The Planning Board will be guided by the Water Control Commission's report. The Water Control Commission's failure to report within the specified time period may be interpreted by the Planning Board as evidence of no objection to the application.

- 1 H. An application shall not be deemed complete until and unless the applicant has
2 complied with the procedures of the State Environmental Quality Review Act.
3
- 4 I. When the Planning Board is the approving authority, no sooner than 30 days and
5 no later than 60 days after the receipt of a completed application, the Planning
6 Board shall hold a public hearing on any application submitted pursuant to this
7 chapter. These time periods may be extended by mutual agreement between an
8 applicant and the Planning Board. The Planning Board shall cause notice of such
9 hearing to be published in the Village's official newspaper(s) at least 7 days prior
10 to the date set for such hearing. All applications and maps and documents relating
11 thereto shall be open for public inspection at the office of the Village Engineer.
12
- 13 J. Within 45 days of the date that such application is considered complete or within
14 45 days of the date of the close of any public hearing that may be conducted on
15 said application, whichever period is longer, the approving authority shall render
16 a decision to approve, approve with modifications and/or conditions or disapprove
17 the issuance of a permit for the proposed activity. Nothing in this section shall be
18 construed as authorizing a default approval in the event that these periods are
19 exceeded.
20

21 **§ 227-8. Standards and procedures.**
22

- 23 A. In making its determination to grant, deny or grant with modifications and/or
24 conditions a permit under this chapter, the approving authority shall consider the
25 following:
26
- 27 (1) Whether the proposed activity is consistent with the findings and intent of
28 this chapter as set forth in § 227-1 and § 227-2 hereof.
29
 - 30 (2) Whether the proposed activity will have an environmental impact and the
31 extent of that impact.
32
 - 33 (3) Whether there are possible or practicable alternatives to the proposed
34 activity.
35
 - 36 (4) Whether the proposed activity will have a deleterious effect on the health,
37 safety or welfare of the residents of the Village or its neighboring
38 communities.
39
 - 40 (5) Whether the proposed activity will have adequate safeguards for the
41 protection and preservation of the environment and the wetlands, and for
42 the natural functions of and benefits derived from such areas.
43
 - 44 (6) Whether the proposed activity will have adequate safeguards employing
45 the best available technology to protect the surface and ground water

supplies of the Village from drought, pollution, overuse and other forms of misuse.

(7) Whether the proposed activity has been planned or designed so as to create minimal disturbance; to prevent or mitigate damage from erosion, turbidity or siltation; to preserve the natural flora and fauna and their habitat; to protect against flood and pollution of the wetlands; and to protect any other benefits of wetlands as enumerated in § 227-1 and § 227-2 hereof; and is the best practicable alternative available for accomplishing the proposed action.

(8) Whether there is a practicable alternative site for the proposed activity in another area of the subject property that is not a wetland.

(9) Any additional information as contained in:

(a) Any report from other Village boards and agencies and/or federal, state or other local governmental agencies.

(b) Any additional requested information.

B. The applicant shall have the burden of demonstrating that the proposed activity is not adverse to the health, safety and welfare of the residents of the Village or its neighboring communities and that it will not degrade the environment or be inconsistent with the purpose of this chapter as stated in § 227-1 and § 227-2 hereof or, in the alternative, that the applicant will otherwise suffer undue hardship if a permit is not issued.

C. The approving authority may require the preparation of a mitigation plan by the applicant pursuant to § 227-8E hereof when the applicant has demonstrated that either losses or significant impacts to the wetlands or wetlands buffer are necessary and unavoidable. For the purposes of requiring a mitigation plan, wetlands impacts are necessary and unavoidable only if all of the following criteria are satisfied:

(1) There is no feasible on-site alternative to the proposed activity, including reduction in density, change in use, revision of road and lot layout and related site planning considerations that could accomplish the applicant's objectives; and

(2) There is no feasible alternative to the proposed activity on another site available to the applicant that is not a wetlands or wetlands buffer.

D. The approving authority shall monitor or shall cause to have monitored projects in accordance with the specifications set forth in the permit to determine whether the elements of the permit and/or mitigation plan have been met. The Planning Board

may contract with an academic institution, independent research group or other qualified professionals to assist and discharge its obligations hereunder at the expense of the applicant. The requirements for monitoring shall be specified in the permit and/or mitigation plan and may include, but not be limited to:

- (1) The time period over which monitoring shall occur.
- (2) Field measurements to verify the size and location of the impacted wetlands area and the restored/replacement wetlands area.
- (3) The date of completion of the work or restoration/replacement.
- (4) Field verification of the vegetative, hydrologic and soils criteria as specified in the permit and/or mitigation plan.

E. In the event that the approving authority so requires pursuant to § 227-8C hereof, the applicant shall prepare a mitigation plan.

- (1) All mitigation measures shall balance the benefits of regaining new wetlands areas with the loss to other natural areas caused by wetlands creation. On-site mitigation shall be the preferred approach; off-site mitigation shall be permitted only in cases where an on-site alternative is not possible.
- (2) Mitigation plans developed to compensate for the loss of wetlands or wetlands buffers shall include baseline data as needed to adequately review the effectiveness of this plan. The mitigation plan shall also include a monitoring schedule for a specified period of time as agreed to by the approving authority.
- (3) Any mitigation plan prepared pursuant to this section and accepted by the approving authority shall become part of the permit for the application.

F. Any permit issued pursuant to this chapter may be issued with conditions. Such conditions may be attached as the approving authority deems necessary to ensure the preservation and protection of affected wetlands and to ensure compliance with the policies and provisions of this chapter and the provisions of the approving authority's rules and regulations, if any, adopted pursuant to this chapter.

G. Every permit issued pursuant to this chapter shall be in written form and shall contain the following conditions:

- (1) Work conducted under a permit shall be open to inspection during daylight hours, including weekends and holidays, by the approving authority or its designated representative or the Village Engineer.

- (2) The permit expiration date as determined by the approving authority shall be stated.
 - (3) The permit holder shall notify the approving authority of the date on which the work is to begin at least five days in advance of such commencement date.
 - (4) The approving authority's permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
 - H. The approving authority shall include in the permit application file it keeps a copy of any mitigation plan prepared pursuant to § 227-8E hereof and a record of any hearing held pursuant to § 227-7J hereof.
 - I. The Planning Board, as the approving authority, may require prior to the commencement of work authorized under any permit issued pursuant to this chapter that the applicant shall post a bond or other security acceptable to the Board of Trustees in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the bond or other security shall be consistent with the purposes of this chapter. The bond or other security shall remain in effect until the issuance of a certificate of completion as described in § 227-12 hereof and until the bond or other security is released by the Planning Board or a substitute bond or other security is provided. In the event that any condition of any such bond or other security is breached, the Planning Board, as the approving authority, may recommend that the Village institute an action in the courts upon such bond or other security and prosecute the same to judgment and execution.
 - J. No permit granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state or local law or regulation, including but not limited to the securing of any other required permit or approval.
 - K. The approving authority may revoke or suspend a permit and/or request the Village Engineer to issue a stop-work order if it finds that the applicant has not complied with any or all of the terms of such permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner set forth in the approved application.
 - (1) Issuance of a stop-work order by the Village Engineer shall be as provided in Section 86-14 of the Village Code. A stop-work order may be appealed by filing a written notice of appeal with the Planning Board not later than thirty (30) days after service of the stop-work order upon the applicant. A

hearing shall be scheduled by the Planning Board within 20 days of receipt of request for a hearing. After the close of the hearing, the Planning Board may confirm, modify or cancel the stop-work order.

- (2) The approving authority shall set forth, in writing, in the permit application file it keeps its findings and reasons for revoking or suspending a permit pursuant to this section.

- L. No permit shall be valid for more than one year after approval of an application by the approving authority unless otherwise specified by the approving authority. All permits shall expire upon the completion of the work specified therein. The validity of any work duly completed pursuant to an existing permit shall not be affected by the expiration of the permit, but such work shall not be continued beyond the expiration date. Permits may be renewed by the approving authority upon application submitted at least 60 days before the expiration of the permit. Standards for issuance of renewals shall be the same as for the issuance of permits. Permits, including all of their conditions, shall be binding on successors and assignees of the applicant.

§ 227-9. Appeals.

- A. A determination by the Planning Board to grant or deny a wetlands permit may be reviewed by the applicant or any other aggrieved person by the commencement of an action pursuant to the provisions of Article 78 of the Civil Practice Law and Rules.
- B. In the case of an application decided by the Water Control Commission or the Village Engineer, the applicant or any other party aggrieved by such determination may seek review by appealing to the Planning Board, in which case the Planning Board shall become the approving authority for such application. Such review shall be requested not later than 20 days after the filing of the subject decision by the approving authority.

§ 227-10. Inspection; indemnification.

Any site for which an application has been submitted shall be subject to inspection upon notice to the property owner and applicant at any reasonable time, including weekends and holidays, by the Village Engineer, the Building Inspector or by members of the Water Control Commission, the Planning Board or their designated representatives. The applicant by making application for such permit shall be deemed to have given its consent to such inspection. The applicant shall indemnify and hold the Village harmless against any damage or injury that may be caused by or arise out of any entry onto the subject property in connection with the processing of the application, during construction or performance of the work or within one year after the completion of work.

§ 227-11. Exemptions.

This chapter shall not apply to any work shown on construction drawings or improvement plans for subdivisions, site plans, minor site plans, or special permits for which a wetlands permit has previously been granted prior to the effective date of this chapter.

§ 227-12. Completion of work.

- A. Within 30 days after completion of all work authorized under a permit issued in accordance with this chapter, the applicant shall notify the Village Engineer of such completion. For all work undertaken pursuant to permits approved by the Planning Board or Water Control Commission, the applicant shall, if required, submit as-built drawings. Within 30 days of such notification and submission, the Village Engineer shall inspect the work for compliance with all conditions of the permit.
- B. When all work authorized under a permit is deemed acceptable, the Village Engineer shall issue a certificate of completion, which shall be accompanied by cancellation or return of any bond collected for such permit.
- C. When work authorized under a permit is deemed not acceptable, the Village Engineer shall so notify the applicant. The notification of noncompliance shall include a list of all conditions in violation of the terms of the permit and shall specify a time limit for the correction of all items so listed.

§ 227-13. Penalties for offenses; enforcement.

- A. Any person who undertakes any regulated activity within a wetlands or wetlands buffer without a wetlands permit required by this chapter or who violates any condition attached to a wetlands permit or who otherwise violates any provision of this chapter shall be guilty of an offense, punishable by a fine of not less than \$500.00 nor more than \$1,000.00. For a second and each subsequent offense, the violator shall be guilty of an offense punishable by a fine of not less than \$1,000.00 nor more than \$2,000.00 or a term of imprisonment of not more than 15 days, or both. Each violation of the provisions of this chapter, shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition the court may order or direct a violator to restore the affected wetland or wetlands buffer to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Village Engineer.
- B. In addition to the criminal penalties provided under § 227-13.A., any person who undertakes any regulated activity within a wetlands or wetlands buffer without a permit required by this chapter or who violates, any condition attached to a wetlands permit or who otherwise violates any provision of this chapter shall be

liable for a civil penalty not to exceed \$3,000.00 for every such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice and with rights to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village, and any action commenced to recover the same may be settled and discontinued by the Village.

C. The Planning Board also shall have the power, following a hearing, to direct a violator to cease violation of this chapter and, under the Board's supervision, to restore satisfactorily the affected wetland or wetlands buffer to its condition prior to the violation, insofar as that is possible, within a reasonable time. Exercising of such power may be with or without the imposition of a fine or civil penalty under Subsections A and B hereof.

D. Any civil penalty or order issued by the Planning Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.

E. The Village also shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the restoration of the affected wetlands or wetlands buffer to its condition prior to the violation of the provisions of this chapter.

F. The Village shall not issue a building permit, temporary certificate of occupancy or certificate of occupancy for any property for which a violation of this chapter has been served, or for which an administrative or judicial proceeding has been commenced under this section, until said violation or proceeding is dismissed or resolved to the satisfaction of the approving authority or court, as is appropriate.

G. The Village Engineer and Code Enforcement Officer(s) are hereby authorized to issue appearance tickets for violations of this chapter.

§ 227-14. Severability.

If any provision of this chapter shall be held for any reason to be invalid, such determination shall not invalidate any other provision hereof."

SECTION 3. This local law shall take effect immediately upon its adoption and filing in the Office of the Secretary of State.

4. CORRESPONDENCE

A. Letter from County Executive Andrew Spano dated July 6, 2007 regarding the Affordable Housing Allocation Plan 2000-2015.

1
2 B. Letter from Lester A. Farthing, United State Department of Commerce dated June
3 14, 2007 advising of the Census Bureau's plans for the upcoming 2010 Census.

4
5 C. Letter from Kathleen Ryan of the Croton-Harmon School District dated June 26,
6 2007 enclosing a copy of the SEQRA Resolution passed by the School Board declaring
7 the Board's intent to be Lead Agency for the SEQRA for some upcoming projects.

8
9
10 5. CITIZEN PARTICIPATION - AGENDA ITEMS - None

11 Phyllis Morrow, Nordica Drive, Croton, commented that the Fire Department has an
12 extraordinary education program and suggested that the Village consider using the same
13 education program and pull together the arboretum group, the school system and possibly
14 BOCES to put an educational program together to protect our wetlands.

15
16 Mayor Schmidt said that this is a great idea and we should also use Earth Day to bring
17 awareness to the community.

18
19 Mayor Schmidt closed Citizen Participation on Agenda Items

20
21 6. RESOLUTIONS

22
23 a. On motion of TRUSTEE BRENNAN seconded by TRUSTEE KONIG, the
24 following resolution was adopted unanimously by the Board of Trustees of the Village of
25 Croton-on-Hudson, New York:

26
27 WHEREAS, Local Law Introductory No. 5 of 2007 has been drafted, increasing
28 the income level for partial real estate tax exemptions for persons sixty-five years of age
29 or older,

30
31 NOW THEREFORE BE IT RESOLVED: that the Village Board of Trustees calls
32 for a Public Hearing at 8pm on August 6, 2007 in the meeting room of the Stanley H.
33 Kellerhouse Municipal Building to consider Local Law Introductory No. 4 of 2007, a
34 local law increasing the income level for partial real estate tax exemptions for persons
35 sixty-five years of age or older

36
37
38
39 B. On motion of TRUSTEE KANE, seconded by TRUSTEE BRENNAN, the
40 following resolution was adopted unanimously by the Board of Trustees of the Village of
41 Croton-on-Hudson, New York:

1 WHEREAS, Metro-North has supplied the Village with a license occupation
2 agreement regarding wire occupation on the Hudson Line consisting of one service feed
3 and one wood pole crossing over and across the Hudson Line Railroad; and
4

5 WHEREAS, this agreement provides for the right to maintain and repair the
6 service feed and wood poll; and
7

8 NOW THEREFORE BE IT RESOLVED: that the Village Manager is hereby authorized
9 to sign the license occupation agreement with Metro-North which provides for the
10 Village to construct, maintain, repair, relocate and ultimately remove one service feed
11 and one wood pole crossing over and across the Hudson Line located approximately 480
12 feet north of the Senasqua Tunnel.
13
14
15
16

17 c. On motion of TRUSTEE GALLELLI seconded by TRUSTEE KANE, the
18 following resolution was adopted unanimously by the Board of Trustees of the Village of
19 Croton-on-Hudson, New York:
20

21 WHEREAS, on September 19, 2005 the Village hired Chazen Engineering to
22 undertake a preliminary study to evaluate the occurrences of brown water and possible
23 mitigating options; and
24

25 WHEREAS, the Chazen report was discussed at the work session of May 14,
26 2007; and
27

28 WHEREAS, at that meeting the Board asked Chazen to prepare a proposal for
29 design and permitting of the corrosion control, a design for north highland tank quality
30 improvement, and preliminary land study of water-bearing potential near existing wells,
31

32 NOW THEREFORE BE IT RESOLVED: that the Village Manager is hereby
33 authorized to sign the proposal with Chazen Engineering for additional engineering
34 designs having to do with corrosion control, water quality improvements in the north
35 highland tank, and a preliminary study of water bearing potential near the existing wells
36 at an estimated cost of \$26,400, the actual fee to be computed on a time and materials
37 basis as per Chazen Engineering fee schedule TCC-2007.
38
39

40 d. On motion of TRUSTEE BRENNAN, seconded by TRUSTEE KONIG, the
41 following resolution regarding an agreement with Westchester County and the Village of
42 Croton on Hudson with respect to yard waste was put off to a work session for further
43 discussion.
44

45 Village Manager, Richard Herbek, advised that the Village of Croton will no longer be
46 able to bring their yard waste to Putnam Valley due to the closing of this site. Mr.

1 Herbek said that when this site closes the Village of Croton does not have an alternative
2 and is concerned of what we are going to do with all of the Village's leaves. Mr. Herbek
3 explained that this IMA will allow two, forty yard containers to be utilized for the
4 purpose of getting rid of the Village's leaves and other organic materials. Mr. Herbek
5 advised that there are over twenty municipalities in the County that have adopted similar
6 IMA's.

7
8 Trustee Gallelli said that commercial entities will also be able to use these containers.

9
10 Mr. Herbek said that they can be used but at a price.

11
12 Trustee Gallelli asked if Croton can take their leaves and organic materials to one of the
13 twenty municipalities that have already signed this agreement. Trustee Gallelli said that
14 there are so many issues and the Board has not had a chance to discuss and while the
15 Village does not have to abide by our Zoning Law, this is still not a permitted use in this
16 zone. Trustee Gallelli said that this type of usage is something that we are trying to move
17 away from and we should still make every effort to reasonably do that. Trustee Gallelli
18 said this is an important entrance to our Village and is basically a waste transfer station
19 that wasn't even permitted at Metro-Enviro.

20
21 Mr. Herbek said that the Village is already using the Municipal Place site for these kinds
22 of activities; there are containers and materials there now and wished there was a better
23 location. Mr. Herbek said that for many years the Village did this down by the train
24 station in the area that is now the boat launch and right now it is the only we can conduct
25 this kind of operation. Mr. Herbek said that he is very concerned if we do not have an
26 option in the event that the Village gets closed out of the Putnam Valley site this fall.

27
28 Mayor Schmidt suggested that the Board discuss this in work session and asked that the
29 staff prepare a report with what options the Village may have. Mayor Schmidt also asked
30 for a list of the other municipalities that have signed this agreement and find out how this
31 has worked out for them.

32
33
34 e. On motion of TRUSTEE GALLELLI, seconded by TRUSTEE KONIG, the
35 following resolution was adopted unanimously by the Board of Trustees of the Village of
36 Croton-on-Hudson, New York

37
38 WHEREAS, Omnipoint Communications, Inc. has applied for a special permit to
39 construct a personal wireless services facility at One Van Wyck Street; and

40
41 WHEREAS, this matter has been referred to the Planning Board for its
42 recommendation and review; and

43
44 WHEREAS, the Village Board of Trustees must consider the environmental
45 impacts in accordance with SEQRA of the installation of the personal wireless services
46 facility at One Van Wyck Street; and

1
2 WHEREAS, Part 1 of the Full Environmental Assessment Form has been
3 prepared by the applicant,
4

5 NOW, THEREFORE BE IT RESOLVED: that the Village Board of Trustees declares
6 its intent to serve as lead agency for the purpose of conducting a coordinated review,

7 AND BE IT FURTHER RESOLVED: that the Village Board authorizes the circulation
8 of the Environmental Assessment Form to all involved and interested agencies.
9

10
11 f. On motion of TRUSTEE GALLELLI, seconded by TRUSTEE KANE, the
12 following resolution was adopted unanimously by the Board of Trustees of the Village of
13 Croton-on-Hudson, New York
14

15 WHEREAS, Omnipoint Communications, Inc. has applied for a special permit to
16 construct a personal wireless services facility at 1 Van Wyck Street, and
17

18 WHEREAS, this matter has been referred to the Planning Board for its
19 recommendation and review; and
20

21 WHEREAS the Planning Board is now recommending the hiring of Frederick P.
22 Clark Associates for planning, RCC for radio frequency, and LynStaar for electrical
23 work,
24

25 NOW, THEREFORE BE IT RESOLVED: that the Planning Board is authorized to
26 obtain proposals from Frederick P. Clark Associates, RCC, and LynStaar,

27 AND BE IT FURTHER RESOLVED: that the Village Manager is authorized to sign
28 the proposals,

29 AND BE IT FURTHER RESOLVED: that the payments to these consultants will be
30 paid from the escrow account established for this purpose funded by the applicant for
31 this review,

32 AND BE IT FURTHER RESOLVED: that the initial amount to be paid into this
33 account should be \$5,000.
34

35 g. On motion of TRUSTEE KONIG, seconded by TRUSTEE BRENNAN, the
36 following resolution was adopted unanimously by the Board of Trustees of the Village of
37 Croton-on-Hudson, New York
38

39 WHEREAS, the Fire Department has been awarded a Community Projects grant
40 from the NYS Department of State for the amount of \$7,500; and
41

1 WHEREAS, the funds will be used for a fire prevention trailer and the purchase
2 of Motorola pagers; and
3

4 WHEREAS, the Village must execute a contract with the New York State
5 Department of State,
6

7 NOW THEREFORE BE IT RESOLVED: that the Village Manager is hereby
8 authorized to sign the contract with the New York State Department of State to receive
9 grant funds of \$7,500.
10

11
12 h. On motion of TRUSTEE BRENNAN, seconded by TRUSTEE KANE, the
13 following resolution was adopted unanimously by the Board of Trustees of the Village of
14 Croton-on-Hudson, New York
15

16 RESOLVED: that the Board of Trustees of the Village of Croton on Hudson
17 hereby schedules the Stipulation of Settlement between Hudson National Golf Course
18 and the Village of Croton on Hudson as an agenda item for action at the August 6, 2007
19 meeting of the Board of Trustees.
20

21 7. CITIZEN PARTICIPATION - NON-AGENDA ITEMS
22

23 Phyllis Morrow, Nordica Drive, Croton, said that she has requested numerous times an
24 esthetic trash be placed at Nordica Drive instead of the very unattractive one that is
25 currently chained to a tree. Ms. Morrow said that she has also asked that the log be
26 removed and has spoken with Mr. Kraft about this. Ms. Morrow said that she was told
27 that the log would keep people from parking there, but where the log is placed it is a mute
28 point because it is way back from the roadway. Ms. Morrow said that she feels very
29 strongly that we have to do something about sanctioning this as a swimming hole.
30

31 Mr. Herbek said that these are the standard trash cans we have throughout all of the
32 recreational facilities but if the Board wants, in this particular case, to have that trash
33 replaced with a different container we can do that.
34

35 Mayor Schmidt said that the Board will discuss this in work session.
36

37 Ms. Morrow advised that she also has a terrible orange water corrosion problem because
38 her home is at the end of the line. Ms. Morrow said that she understands that some of the
39 water lines were changed in the Harmon area, they were not changed down where they
40 are really needed; it has ruined her plumbing, bath fixtures, etc. and needs something to
41 start happening.
42

43 Mayor Schmidt closed Citizen Participation on Non-Agenda Items
44

45
46 8. APPROVAL OF MINUTES:

1
2 Trustee Brennan made a motion to approve the minutes of the Regular Meeting held on
3 Monday, July 2, 2007. Trustee Gallelli seconded the motion. The Board voted
4 unanimously to approve the minutes as amended.
5

6 Trustee Kane made a motion to approve the minutes of the Executive Session held on
7 Monday, July 2, 2007. Trustee Konig seconded the motion. The Board voted
8 unanimously to approve the minutes
9

10 Trustee Kane made a motion to approve the minutes of the Executive Session held on
11 Monday, July 9, 2007. Trustee Brennan seconded the motion. The Board voted
12 unanimously to approve the minutes as amended.
13

14 9. REPORTS
15

16 Village Manager, Richard Herbek, advised that the Village will be holding a pre-
17 construction meeting with the contractors regarding the Croton Landing project.
18

19 Trustee Gallelli said that one of the things the public will want to know is how the current
20 usage at Croton Landing is going to change and we should get that information out to the
21 public as soon as possible.
22

23 Trustee Konig asked that the Village Board Liaison list be placed on the web-site.
24 Trustee Konig welcomed the visiting students from China and thanked the families who
25 have taken the students in.
26

27 Trustee Kane advised that he attended the garden tour yesterday; it was a great day and
28 saw seven beautiful gardens. Trustee Kane said that the mystery garden was on Grand
29 Street; belongs to the DiGiacomo family and it was the highlight of his tour; everything
30 in this garden was edible.
31

32 Trustee Gallelli said that at the last meeting the Village Attorney spoke about the status
33 of the 1A Croton Point Avenue facility and at that time he advised that the Village would
34 be processing the Special Permit Application under court order. Trustee Gallelli advised
35 that the Planning Board and the Village's Consultant had a site visit last Saturday.
36

37 Trustee Gallelli said that in her report at the last meeting she mentioned that a group of
38 Village residents met with the Village Board encouraging the Village to take a pro-active
39 stance and work with business owners in the Harmon area to see how we can work
40 together on business development in that area. Trustee Gallelli advised that one of the
41 outcomes from that meeting is that the Village will be meeting with all of the property
42 owners on July 23, 2006 to learn from them and discuss what might be useful for
43 everyone.
44

45 Trustee Gallelli advised that the summer recreation programs are going well; everyone is
46 enjoying the entertainment programs.

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1
2 Trustee Gallelli advised that there was a very informative meeting with the Village and
3 Town with regard to the situation and improvements that have occurred on the Croton
4 River.

5
6 Trustee Brennan advised that he attended that meeting; it was well attended and it
7 appears that most of the residents are happy with the accomplishments the Village has
8 been able to do with the Town of Cortlandt.

9
10 Trustee Brennan advised that the Community Center Surveys have finally reached our
11 desks and requested that they be put on the web-site. Trustee Brennan said that
12 approximately 20% of the residents responded which is a significant number.

13
14 Trustee Brennan said that the Croton Landing project is going to be a major project in the
15 Village and will be great when it is completed.

16
17 Trustee Brennan said that he received an anonymous letter regarding the cell tower.
18 Trustee Brennan said that he wanted to make it clear that he is not totally in favor of the
19 cell tower because he is not that knowledgeable about the technology of cell towers and
20 how safe they are. Trustee Brennan said that he also has a responsibility to the residents
21 Police Department and Fire Department who are requesting them.

22
23 Mayor Schmidt reported that the meeting held with respect to Mayo's Landing was a very
24 successful meeting, the residents appear to be happy with the changes, there are certainly
25 other recommendations that came out of that meeting as to things that we can do in the
26 future, there are still great concerns about the erosion, plantings and the environment and
27 the ability that the police boat can do what it needs to do. Mayor Schmidt said that the
28 change has been very positive, the crowds are diminished and the Police Department
29 feels that with their presence people are behaving and there is a better level of people
30 participating and using the facility.

31
32 Mayor Schmidt passed out the recommendations for Board liaisons.

33
34 Trustee Gallelli said that she has a long history with the Planning Board, attends all of the
35 meetings, has a lot of knowledge and had previously requested to be Planning Board
36 liaison.

37
38 Mayor Schmidt told Trustee Gallelli that she can certainly share this with Trustee
39 Brennan. Mayor Schmidt said that in addition to qualification there is the issue of new
40 faces; it is appropriate to move liaisons around and it is good that other Board members
41 get experience in different areas.

42
43 Trustee Gallelli said that she does not disagree with what Mayor Schmidt said, but in
44 terms of the Planning Board it is essential that the liaison be there on a regular basis,
45 additionally she is frequently asked to contribute because of her past experiences.
46

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1 A motion to accept the Liaison Designation was made by Trustee Konig and seconded by
2 Trustee Brennan. Motion was unanimously approved.

3
4 A motion to enter into Executive Session following the close of the Regular Meeting to
5 discuss ongoing litigation with respect to 1A Croton Point Facility and ongoing litigation
6 with respect to the real estate transaction regarding Strickland Realty was made by
7 Trustee Konig and seconded by Trustee Brennan. Motion was unanimously approved.

8
9 There being no further comments to come before the Board, a motion to close the
10 meeting at 10:25pm was made by Trustee Brennan and seconded by Trustee Konig
11 Motion was unanimously approved.

12
13 Respectfully submitted,

14
15 Board Secretary

16
17
18 _____
19 Pauline DiSanto, Village Clerk